# Journal of the Senate

**Number 21—Regular Session** **Thursday, May 1, 2008**

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## CALL TO ORDER

The Senate was called to order by President Pruitt at 9:30 a.m. A quorum present—39:

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

## PRAYER

The following prayer was offered by the Rev. Robert W. Jakoby, Director, Pastoral Care Services, Baptist Health South Florida, Miami:

Our heavenly Father, as we come to you today, a day that has been set aside as a day of prayer all across our nation, we ask for your forgiveness. We confess to you that we, as a nation, have often compromised our morals and principles for temporary, short-term pleasures and gains. We have turned our backs toward you causing you great hurt and sorrow. Thank you for not turning your back on us; for continuing to love and to protect us from further terrorist attacks in our homeland.

Help us, from the depth of our soul, to say with David, in the book of Psalms, "Teach me your way, O Lord; and I will walk in your truth; give me an undivided heart that I may reverence your name." (Psalms 86:11) Truly "The Lord is my strength and shield; my heart trusted in him and I am helped." (Psalms 28:7)

Dear God, we are a troubled people, living in troubled times in every area of life, and desperately need you. Most merciful God, you have promised in your holy word, "If my people, which are called by my name, humble themselves, and shall pray, and seek my face and turn from their wicked ways; then I will hear from Heaven, forgive their sin and heal their land." (II Chronicles 7:14) Heavenly Father, help us to claim this promise individually and as a nation.

Lord, I also come to your throne of grace today, lifting up to you each Senator and his or her family. I ask you to grant them a special blessing of good health. Give each Senator wisdom when making difficult decisions that affect so many people across this great state. Lord God, you know the struggles they go through; guide them, please. Gift them with knowledge and insight of your love and your grace. Gracious Father, grant to them courage to "Do the right thing," honoring you and the people they represent, even when it may not be politically advantageous. Bless them this day with your grace and your peace. In your holy name, I pray. Amen.

## PLEDGE

Kindergarten students from Holy Comforter Episcopal School of Tallahassee, accompanied by their teacher, Shelley Brimacombe and her assistant, Bethany McLaughlin, signed and led the Senate in the pledge of allegiance to the flag of the United States of America.

### SPECIAL PERFORMANCE

The kindergarten students from Holy Comforter Episcopal School sang and signed "God Bless America." The students included Mary Avrett Brown, Anna Cureton, Hayden Foster, Grace Glennon, Abi Hatcher, Sarah-Brett Heath, Brecht Heuchan, Genevieve Kynoch, daughter of Cindy Kynoch, Legislative Analyst with the Committee on General Government Appropriations, McKenzie Landrum, Jake Moore, Gabrielle Powell, Zachary Pullam, Mallory Ragsdale, Henry Regalado, Hunter Shiver, nephew of Jamie DeLoach, Staff Director of the Committee on General Government Appropriations, Allison Thacker, Sasha Viouchkov and Murray Wadsworth.

## DOCTOR OF THE DAY

The President recognized Dr. Dennis Saver of Vero Beach, sponsored by Senator Haridopolos, as doctor of the day. Dr. Saver specializes in Family Medicine.

## ADOPTION OF RESOLUTIONS

At the request of Senator Haridopolos—

By Senator Haridopolos—

**SR 3008**—A resolution supporting the decision of the United States Air Force concerning the KC-45 Tanker Contract.

WHEREAS, after an extensive evaluation process, the United States Air Force awarded a 35-billion-dollar jet tanker contract to Northrop Grumman Corporation, and

WHEREAS, engineering and program management for the production of these vital military aircraft will be in Melbourne, Florida, creating more than 1,500 direct and indirect new jobs in our state, and

WHEREAS, efforts to overturn the decision of the United States Air Force concerning its detailed analysis of this project and contract could prove detrimental to our national security, and it is imperative that elected officials support the decisionmakers whom they entrust with these important determinations, and

WHEREAS, Florida workers are ready, able, and eager to begin constructing this aircraft that the U.S. Air Force has rated as superior in five out of five categories, NOW, THEREFORE,

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

That the Senate supports the decision of the United States Air Force concerning the awarding of the KC-45 jet tanker contract and looks forward to the talented workers of the great State of Florida beginning work on this critically important project.

—**SR 3008** was introduced, read and adopted by publication.

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At the request of Senator Jones—

By Senator Jones—

**SR 3014**—A resolution recognizing Douglas Donn for his vision and expertise in thoroughbred track development and his leadership in many public service organizations in Florida.

WHEREAS, Douglas Donn's vision and expertise propelled Gulfstream Park to one of the world's leading thoroughbred tracks in the United States during his tenure as President and later as Chairman of Gulfstream from 1978 until 2004, and

WHEREAS, Douglas Donn was the youngest chief executive officer of a major thoroughbred track when at age 31 he assumed the post at the Hallandale, Florida, track following the untimely death of his father, Jimmy Donn, Jr., and

WHEREAS, under Douglas Donn's leadership, Gulfstream Park attained exceptional gains in attendance, handle, and purse distribution in an industry experiencing nationwide declines, and

WHEREAS, among the milestones achieved under Douglas Donn's leadership were the emergence of Gulfstream as one of the world's foremost racing centers and the winter home of choice for most Triple Crown aspirants; the hosting of The Breeders' Cup, the World Championship of Racing, in Florida for the first time at Gulfstream in 1989, with repeat performances in 1992 and 1999; and the establishment of the richest racing purse structure in Florida's history, which attracted many of the nation's leading owners, trainers, jockeys, and thoroughbreds to Gulfstream, and

WHEREAS, Douglas Donn also established the lowest take-out rate in the State of Florida, ensuring larger payoffs for track patrons; actively implemented aggressive and innovative marketing, public relations, customer services, better incentive programs, and entertainment at Gulfstream; created "Family Days" every weekend which headlined nationally featured bands, singers, comedians, and specialty acts for children, resulting in thousands of additional patrons to Gulfstream; guided Gulfstream to state pari-mutuel handle records in every category; instituted full-card simulcasting; developed a precedent-setting agreement with the Florida Horsemen's Benevolent and Protective Association to share pari-mutuels in Florida; and negotiated the annual telecast of the Florida Derby, nationally recognized as a preview to the Triple Crown, on ABC's Wide World of Sports, making Gulfstream the first thoroughbred race track to gain that distinction, and

WHEREAS, Douglas Donn has been honored for his outstanding contributions to the industry by the Florida Horseman's Benevolent and Protective Association; has been named "Horseman of the Year" by the Florida Turf Writers Association and "Man of the Year" by the Jockey Agents Benevolent Association; and was also named "Businessman of the Year" in 1984 by the United Cerebral Palsy Foundation, and

WHEREAS, Douglas Donn has provided a wide variety of public service, including his roles as Member of the Board of Directors of the Florida Chamber of Commerce, Past Chairman of the Hollywood Chamber of Commerce, Past Chairman of the Broward Forum, Past Director of the Broward Economic Development Board, Past Chairman of the Downtown Hollywood Redevelopment Agency, Past Chairman of the South Area United Way, Past Chairman of the Hallandale Police Athletic League, and Board Member of the Hallandale Chamber of Commerce, and

WHEREAS, Douglas Donn graduated from Florida State University with a degree in Marketing and served a tour of active duty in the Marine Corps Reserves before beginning his Gulfstream career, and, with his wife, Alice, is a resident of Ft. Lauderdale, NOW, THEREFORE,

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

That the Senate recognizes the many great contributions Douglas Donn has made to the progress of thoroughbred racing in Florida and to the support of essential public service organizations that have significantly benefited Florida communities and residents.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Douglas Donn as a tangible token of the sentiments of the Florida Senate.

—**SR 3014** was introduced, read and adopted by publication.

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At the request of Senator Gaetz—

By Senator Gaetz—

**SR 3020**—A resolution recognizing Sergeant Major Frank O. Moore of Santa Rosa Beach, Florida, on his induction into the Army Ranger Hall of Fame.

WHEREAS, Sergeant Major Frank O. Moore has had a distinguished military career, beginning in the Marine Corps and continuing through 15 years in the Army, and

WHEREAS, his career in the Army developed from his service in the Rangers in Vietnam through several reconnaissance units and Ranger Battalions to Special Forces A Teams, and

WHEREAS, Sergeant Major Moore was one of the first members of the HALO (High Altitude - Low Opening) jump team and he logged thousands of jumps while in military service, and

WHEREAS, he received more than 21 awards and decorations during his outstanding career, including the Silver Star, the Legion of Merit, the Bronze Star, and the Air Medal, and

WHEREAS, following his stalwart military service to his country, Sergeant Major Moore retired with his wife, Leone, to Santa Rosa Beach, Florida, where he continues an active life with other retired Rangers and their families, and

WHEREAS, the Army Ranger Hall of Fame was formed to honor and preserve the contributions of the most extraordinary U.S. Rangers in American history, and its Selection Board takes particular care to ensure that only the most extraordinary Rangers are inducted, and

WHEREAS, Sergeant Major Frank O. Moore will be inducted into the Army Ranger Hall of Fame at Fort Benning, Georgia, on June 11, 2008, NOW, THEREFORE,

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

That the Senate recognizes and honors the outstanding career accomplishments and dedicated military service of Sergeant Major Frank O. Moore, and congratulates him heartily on his well-earned induction into the Army Ranger Hall of Fame.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Sergeant Major Frank O. Moore as a tangible token of the esteem of the Florida Senate.

—**SR 3020** was introduced, read and adopted by publication.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2610, with 1 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for SB 2610**—A bill to be entitled An act relating to public records; creating s. 765.5155, F.S.; providing an exemption from public-records requirements for information in the organ and tissue donor registry

which would identify a donor; providing an exception; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

**House Amendment 1 (341185)(with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. Section 765.51551, Florida Statutes, is created to read:

*765.51551 Organ and tissue donor registry; public records exemption.—*

*(1) Information held in the organ and tissue donor registry which identifies a donor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.*

*(2) Such information may be disclosed to the following:*

*(a) Organ, tissue, and eye procurement organizations that have been certified by the Agency for Health Care Administration for the purpose of ascertaining or effectuating the existence of a gift under s. 765.522.*

*(b) Persons engaged in bona fide research if the person agrees to:*

*1. Submit a research plan to the agency that specifies the exact nature of the information requested and the intended use of the information;*

*2. Maintain the confidentiality of the records or information if personal identifying information is made available to the researcher;*

*3. Destroy any confidential records or information obtained after the research is concluded; and*

*4. Not directly or indirectly contact, for any purpose, any donor or donee.*

*(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2013, unless reviewed and saved from repeal through reenactment by the Legislature.*

Section 2. *The Legislature finds that it is a public necessity to make confidential and exempt from disclosure information held in the organ and tissue donor registry which would identify a donor. Such personal identifying information, if publicly available, could be used to invade the personal privacy of the donor identified in the registry. The decision to make or revoke an anatomical gift is a private matter of personal choice. Furthermore, the disclosure of such information could hinder the effective and efficient administration of the organ and tissue donation program. Access to such information could reduce donations and the availability of potentially life-saving organs, tissues, or other body parts. Finally, access to such information could be used to solicit, harass, stalk, or intimidate organ and tissue donors. Thus, the Legislature finds that information held in the organ and tissue donor registry which would identify a donor should be confidential and exempt from public records requirements.*

Section 3. This act shall take effect on the same date that House Bill 1485, or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to public records; creating s. 765.51551, F.S.; providing an exemption from public records requirements for information in the organ and tissue donor registry which would identify a donor; providing exceptions; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

On motion by Senator Oelrich, the Senate concurred in the House amendment.

**CS for SB 2610** passed as amended by the required constitutional two-thirds vote of the members present, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Villalobos |
| Constantine | Justice | Webster |
| Crist | King | Wilson |
| Dean | Lawson | Wise |
| Deutch | Lynn | |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla, Storms

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 2630, with 3 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for SB 2630**—A bill to be entitled An act relating to organ and tissue donation; amending s. 765.203, F.S.; deleting a provision in the form that designates a health care surrogate that provides an exception for anatomical gifts; amending s. 765.512, F.S.; revising provisions for making an organ donation; adding additional persons to the list of persons who may donate a decedent's body; removing the provision prohibiting a spouse from making a donation if the decedent's adult son or daughter objects; amending s. 765.514, F.S.; providing additional mechanisms for making an anatomical gift including registering with the organ and tissue donor registry; revising the uniform donor card to specify the type of donation; deleting a statement of public policy that prohibits restrictions on who may receive an anatomical gift, a provision specifying who can accept a gift, and a provision designating a physician to carry out appropriate procedures; amending s. 765.515, F.S.; requiring the Department of Highway Safety and Motor Vehicles to inform the donor registry of instances of making an anatomical gift and of withdrawal of an anatomical gift; deleting a provision requiring the Agency for Health Care Administration and the department to maintain a donor registry; creating s. 765.5155, F.S.; providing legislative intent with respect to establishing an online organ and tissue donor registry; requiring administration of the donor registry to be procured by competitive solicitation; specifying the duties of the contractor including the operation of the registry, a continuing public education program about organ donation, and the preparation of an annual report; authorizing the agency to adopt rules relating to providing research access to the registry; providing for funding and for voluntary contributions to the registry; designating the donor registry as the "Joshua Abbott Organ and Tissue Donor Registry"; amending s. 765.516, F.S.; authorizing revocation of an anatomical gift by a donor through removal of his or her name from the registry; amending s. 765.517, F.S.; revising provisions relating to verification of a donor's consent at death; amending s. 765.521, F.S.; conforming a cross-reference; amending s. 765.522, F.S.; revising duties of hospital administrators with respect to reporting suitable donor candidates at or near the time of death; updating references to organ procurement organizations; repealing s. 765.5215, F.S., relating to an education program relating to anatomical gifts; repealing s. 765.5216, F.S., relating to the organ and tissue donor education panel; providing an effective date.

**House Amendment 1 (320025)**—Remove lines 366-370 and insert:

*2. The contractor shall coordinate with the head of a state agency or other political subdivision of the state, or his or her designee, to establish convenient times, dates, and locations for educating that entity's employees.*

**House Amendment 2 (578137)(with title amendment)**—Remove lines 386-407 and insert:

*(4) Costs for the organ and tissue donor registry and education program shall be paid by the Agency for Health Care Administration from the funds deposited into the Health Care Trust Fund pursuant to ss. 320.08047 and 322.08, which are designated for maintaining the organ and tissue donor registry and education program. In addition, the contractor may receive and use voluntary contributions to help support the registry and provide education.*

*(5) The organ and tissue donor registry established by this*

And the title is amended as follows:

Remove lines 31-33 and insert: and the preparation of an annual report; providing for funding and for

**House Amendment 3 (502229)**—Remove line 402 and insert: *Trust Fund pursuant to ss. 320.08047 and 322.08, which are*

On motion by Senator Oelrich, the Senate concurred in the House amendments.

**CS for CS for SB 2630** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—36

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Geller | Posey |
| Baker | Haridopolos | Rich |
| Bennett | Hill | Ring |
| Bullard | Jones | Saunders |
| Carlton | Joyner | Siplin |
| Constantine | Justice | Storms |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla, Villalobos

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 686, with amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III*, Chief Clerk

**CS for CS for SB 686**—A bill to be entitled An act relating to nursing facilities; amending s. 400.141, F.S.; authorizing certain licensed nursing facilities to develop a plan to provide certain training for nursing assistants; providing for rules relating to agency approval of training programs; amending s. 400.147, F.S.; redefining the term "adverse incident"; deleting the requirement that a nursing facility notify the agency of an adverse incident; deleting notification requirements; requiring that a risk manager determine if an incident was an adverse incident; providing that federal reporting requirements are not affected; amending s. 400.19, F.S.; providing that the most recent survey is a licensure survey under certain conditions for purposes of future survey scheduling; amending s. 400.195, F.S., relating to agency reporting requirements; conforming a cross-reference; amending s. 400.23, F.S.; deleting provisions requiring agency approval in order for a nursing home to use licensed nurses to perform certain duties; providing an effective date.

**House Amendment 1 (811521)**—Remove line 340 and insert: *regarding a resident, other than a request for transportation.*

On motion by Senator Bennett, the Senate concurred in the House amendment.

**CS for CS for SB 686** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

## BILLS ON THIRD READING

Consideration of **CS for CS for SB 2212**, **CS for CS for SB 482**, **CS for CS for SB 1430**, **CS for CS for CS for HB 653** was deferred.

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**CS for HB 7045**—A bill to be entitled An act relating to public school curricular standards; amending s. 1003.41, F.S.; requiring the State Board of Education to review the Sunshine State Standards and replace them with enhanced curricular standards; establishing requirements for the standards; providing requirements for the adoption, review, and revision of the standards; requiring evaluation of proposed standards; authorizing the adoption of rules; amending s. 220.187, F.S.; revising requirements for the selection of norm-referenced tests administered by private schools for purposes of the Corporate Income Tax Credit Scholarship Program; amending s. 1000.21, F.S.; revising the systemwide definition of "Sunshine State Standards"; amending s. 1001.03, F.S.; requiring the state board to review and revise the Sunshine State Standards; conforming provisions; amending s. 1001.41, F.S.; conforming provisions relating to district school board adoption of standards and policies; amending s. 1001.42, F.S.; prohibiting school district expenditure of legislative appropriations for purposes of Florida Comprehensive Assessment Test (FCAT) preparation; providing penalties for unlawful expenditures; amending ss. 1003.428, 1003.429, 1003.43, 1003.433, 1003.63, 1006.28, and 1006.31, F.S.; conforming provisions and cross-references; amending s. 1006.34, F.S.; specifying additional criteria for evaluating instructional materials; conforming provisions; amending s. 1006.38, F.S.; conforming provisions; amending s. 1006.40, F.S.; requiring instructional materials to align to the Sunshine State Standards; prohibiting school district expenditure of the instructional materials allocation for purposes of FCAT preparation; requiring notification to manufacturers and publishers; providing a penalty; authorizing purchases of specified content or devices; amending s. 1008.22, F.S.; revising requirements and conforming provisions relating to the statewide assessment program; revising powers and duties of the Commissioner of Education; requiring the FCAT to assess students in social studies by a certain time; providing for end-of-course assessments; requiring the content knowledge and skills assessed by the FCAT and end-of-course assessments to align to the Sunshine State Standards; authorizing the commissioner to select certain nationally developed examinations as end-of-course assessments under specified conditions; deleting provisions relating to documentation of certain testing procedures; providing restrictions on the development or publication of test-preparation materials; deleting requirements for norm-referenced tests; revising requirements for assessments of writing; establishing requirements for FCAT testing and reporting schedules; prohibiting practice testing and FCAT-preparation activities under certain conditions; authorizing certain test-preparation activities; requiring public schools to comply with statewide assessment and reporting schedules; establishing requirements for calculating student scores on revised statewide assessments; authorizing the administration of former assessments to be discontinued under certain circumstances; requiring the state board to adopt rules establishing

passing scores on revised assessments required for a standard high school diploma; clarifying determination of concordant scores for the FCAT; revising requirements for an annual report on student performance; amending s. 1008.25, F.S.; requiring each district school board's student progression program to include performance in social studies; requiring assessment, remediation, and reporting related thereto; amending s. 1008.34, F.S.; exempting certain schools from receiving school grades; revising the definition of "home school" for purposes of calculating school grades for alternative schools; requiring annual collaboration among school principals concerning the school assignment of students attending an alternative school; conforming provisions; amending s. 1008.341, F.S.; exempting certain alternative schools from receiving school improvement ratings; conforming provisions; amending s. 1008.345, F.S.; conforming provisions; amending s. 1008.36, F.S.; revising criteria for financial awards under the Florida School Recognition Program; providing an effective date.

—as amended April 30 was read the third time by title.

On motion by Senator Gaetz, **CS for HB 7045** as amended was passed and certified to the House. The vote on passage was:

Yeas—31

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|---|---|---|
| Mr. President | Fasano | Peaden |
| Alexander | Gaetz | Posey |
| Aronberg | Garcia | Ring |
| Atwater | Geller | Saunders |
| Baker | Haridopolos | Siplin |
| Bennett | Jones | Storms |
| Carlton | King | Villalobos |
| Constantine | Lawson | Webster |
| Crist | Lynn | Wise |
| Dean | Margolis | |
| Dockery | Oelrich | |

Nays—6

| | | |
|---|---|---|
| Bullard | Hill | Justice |
| Deutch | Joyner | Rich |

Vote after roll call:

Yea—Diaz de la Portilla

Nay—Wilson

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**CS for HB 173**—A bill to be entitled An act relating to controlled substances; amending s. 893.02, F.S.; defining the term "cultivating" for specified purposes; amending s. 893.1351, F.S.; prohibiting a person from owning or actually or constructively possessing a place, structure, trailer, or other described place with knowledge that the place will be used to manufacture, sell, or traffic in a controlled substance; providing that possession of a specified number or more of cannabis plants constitutes prima facie evidence of intent to sell or distribute; providing that a person with actual or constructive possession of a place, structure, trailer, or conveyance being used to manufacture a controlled substance for sale and distribution commits a felony of the first degree if a minor is present or resides in the place, structure, trailer, or conveyance; providing criminal penalties; amending s. 893.10, F.S.; providing that equipment used in the manufacture of controlled substances may be photographed or video recorded and the photograph or video recording used as evidence for later use at trial; providing for the destruction of the equipment; amending s. 921.0022, F.S.; ranking specified offenses in the offense severity ranking chart of the Criminal Punishment Code; amending ss. 465.016, 465.023, and 893.135, F.S.; conforming cross-references; providing an effective date.

—was read the third time by title.

On motion by Senator Oelrich, **CS for HB 173** was passed and certified to the House. The vote on passage was:

Yeas—36

| | | |
|---|---|---|
| Mr. President | Atwater | Bullard |
| Alexander | Baker | Carlton |
| Aronberg | Bennett | Constantine |
| Crist | Hill | Peaden |
| Dean | Jones | Posey |
| Deutch | Joyner | Rich |
| Dockery | Justice | Ring |
| Fasano | King | Saunders |
| Gaetz | Lawson | Storms |
| Garcia | Lynn | Villalobos |
| Geller | Margolis | Webster |
| Haridopolos | Oelrich | Wise |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla, Siplin

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On motion by Senator Lynn, by two-thirds vote **CS for CS for HB 967** was withdrawn from the Committees on Governmental Operations; Banking and Insurance; and General Government Appropriations.

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

**CS for CS for HB 967**—A bill to be entitled An act relating to workplace safety; creating the Florida Public Task Force on Workplace Safety within the Safety Florida Consultation Program at the University of South Florida; providing the purpose of the task force; providing for membership; requiring that the task force address certain issues concerning workplace safety in the public and private sectors; providing for staffing; providing for members to serve without compensation but to be reimbursed for per diem and travel expenses; authorizing the task force to procure information or assistance from any officer or agency of the state; requiring that such officers or agencies provide information and assistance to the task force; requiring that the task force submit a report and recommendations to the Governor, the Chief Financial Officer, and the Legislature by a specified date; requiring that the report include certain information; providing for dissolution of the task force; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 652** as amended and by two-thirds vote read the second time by title. On motion by Senator Lynn, by two-thirds vote **CS for CS for HB 967** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for HB 225**—A bill to be entitled An act relating to telephone caller identification; providing a short title; creating s. 817.487, F.S.; prohibiting entering or causing to be entered false information into a telephone caller identification system with the intent to deceive, defraud, or mislead; prohibiting placing a call knowing that false information was entered into the telephone caller identification system; providing definitions; providing exceptions; providing penalties; providing that a violation is an unlawful trade practice under specified provisions; providing for enhancement of penalties when a violation is committed

during the commission of a criminal offense or when a violation facilitates a criminal offense; providing an effective date.

—was read the third time by title.

On motion by Senator Aronberg, **CS for HB 225** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for HB 643**—A bill to be entitled An act relating to foreclosure fraud; creating s. 501.1377, F.S.; providing legislative findings and intent with respect to the need to protect homeowners who enter into agreements designed to save their homes from foreclosure; providing definitions; prohibiting a foreclosure-rescue consultant from engaging in certain acts or failing to perform contracted services; requiring that all agreements for foreclosure-related rescue services and foreclosure-rescue transactions be in writing; specifying information that must be in the written agreement; requiring that certain statements in the written agreement be in uppercase letters and of a specified size; providing that the homeowner has a right to cancel the agreement for a specified period and the right may not be waived; providing that the homeowner has a specified period during which to cure a default under certain circumstances; requiring equity purchasers to assume or discharge certain liens; requiring that an equity purchaser verify the homeowner's ability to make payments under a repurchase agreement; providing price limitations for repurchase transactions; providing for a rebuttable presumption of certain transactions being unconscionable under certain circumstances; providing for limited application of the presumption; providing an exclusion; providing that a foreclosure-rescue transaction involving a lease option or other repurchase agreement creates a rebuttable presumption that the transaction is a loan transaction and the conveyance from the homeowner to the equity purchaser is a mortgage; providing limited application of the presumption; providing an exclusion; providing that a person who violates certain provisions commits an unfair and deceptive trade practice as defined in part II of ch. 501, F.S.; providing penalties; repealing s. 501.2078, F.S., relating to violations involving individual homeowners during the course of residential foreclosure proceedings; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **CS for HB 643** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Crist | Hill |
| Alexander | Dean | Jones |
| Aronberg | Deutch | Joyner |
| Atwater | Dockery | Justice |
| Baker | Fasano | King |
| Bennett | Gaetz | Lawson |
| Bullard | Garcia | Lynn |
| Carlton | Geller | Margolis |
| Constantine | Haridopolos | Oelrich |
| Peaden | Saunders | Webster |
| Posey | Siplin | Wilson |
| Rich | Storms | Wise |
| Ring | Villalobos | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**HB 461**—A bill to be entitled An act relating to health flex plans; amending s. 408.909, F.S.; revising eligibility for enrollment in a health flex plan; extending the expiration date of the health flex plan program; providing an effective date.

—was read the third time by title.

On motion by Senator Peaden, **HB 461** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for HB 559**—A bill to be entitled An act relating to material harmful to minors; amending s. 847.001, F.S.; redefining the term "harmful to minors"; amending s. 847.011, F.S.; providing that it is a third-degree felony for any person to sell, distribute, transmit, advertise, or possess with the intent to sell, distribute, transmit, or advertise certain materials to minors; providing that ignorance of a minor's age or the minor's consent is not a defense in a prosecution for such a violation; providing penalties; amending s. 847.012, F.S.; prohibiting a person from knowingly using a minor in the production of certain materials, regardless of whether those materials are intended for distribution to minors or actually distributed to minors; providing a penalty; providing that ignorance of a minor's age or the minor's consent is not a defense in a prosecution for specified violations; amending s. 847.013, F.S.; providing that ignorance of a minor's age or the minor's consent is not a defense in a prosecution for specified violations; revising legislative intent concerning the enforcement of such laws with respect to minors; amending s. 847.0133, F.S.; revising terminology; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; establishing offense levels to conform to changes made by the act; providing an exemption to sections amended by this act for providers of communications services and providers of information services in certain circumstances; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **CS for HB 559** was passed and certified to the House. The vote on passage was:

Yeas—38

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| Mr. President | Atwater | Bullard |
| Alexander | Baker | Carlton |
| Aronberg | Bennett | Constantine |

| | | |
|---|---|---|
| Crist | Jones | Rich |
| Dean | Joyner | Ring |
| Deutch | Justice | Saunders |
| Dockery | King | Siplin |
| Fasano | Lawson | Storms |
| Gaetz | Lynn | Villalobos |
| Garcia | Margolis | Webster |
| Geller | Oelrich | Wilson |
| Haridopolos | Peaden | Wise |
| Hill | Posey | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for HB 547**—A bill to be entitled An act relating to water pollution control; amending s. 403.067, F.S.; providing requirements for basin management action plans; allowing such plans to take into account the benefits of pollutant load reduction achieved by point or nonpoint sources, where appropriate; requiring that the Department of Environmental Protection adopt all or part of any such plan, or any amendment thereto, by secretarial order as provided by state law; providing that the provisions of the department's rule relating to the equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which a basin management plan that takes into account future or new expanded activities or discharges has been adopted; authorizing water quality protection programs to include the trading of water quality credits; authorizing the department to adopt rules related to the trading of water quality credits; requiring that such rulemaking include certain provisions; specifying that a water quality credit trading pilot project be limited to the Lower St. Johns River Basin as a pilot project; requiring that the department provide the Legislature with an annual report regarding the effectiveness of the pilot project; providing report requirements; providing that the department may authorize and establish specific requirements for water quality credit trading as part of the Lower St. Johns River Basin adopted basin management action plan; correcting cross-references to conform to changes made by the act; amending s. 403.088, F.S.; authorizing the department to revise a water pollution operation permit under certain circumstances; authorizing the department to issue, renew, or reissue such a permit if a water quality credit trade meets the requirements of 403.067, F.S.; requiring that revised permits be accompanied by an order establishing a schedule for achieving compliance with all permit conditions; providing an effective date.

—was read the third time by title.

On motion by Senator Gaetz, **CS for HB 547** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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On motion by Senator Wise, by two-thirds vote **CS for HB 727** was withdrawn from the Committees on Banking and Insurance; Community Affairs; and General Government Appropriations.

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

**CS for HB 727**—A bill to be entitled An act relating to firesafety; providing a short title; amending s. 633.022, F.S.; including application of uniform firesafety standards to tunnels; revising application of automatic sprinkler systems requirements to nursing homes; requiring a nursing home licensee to submit complete sprinkler construction documents to the Agency for Health Care Administration by a specified date; requiring such licensee to gain final approval from the agency to start construction by a specified date; authorizing the agency to extend the deadline under certain circumstances; amending s. 633.0245, F.S.; providing a new application deadline for participation in the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program; amending s. 663.0215, F.S., requiring the State Fire Marshal to conduct a study on the use of voice-over-Internet-protocol telephone service for monitoring fire alarm systems; requiring rulemaking under certain conditions; creating s. 633.027, F.S.; requiring owners of certain structures to post certain signs or symbols on the structures; requiring the State Fire Marshal to adopt rules governing such signs or symbols; providing for enforcement; providing penalties; providing an effective date.

—a companion measure, was substituted for **SB 1554** as amended and by two-thirds vote read the second time by title. On motion by Senator Wise, by two-thirds vote **CS for HB 727** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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Consideration of **CS for HB 197** was deferred.

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**HB 7033**—A bill to be entitled An act relating to public records; renumbering and amending s. 119.0711(1), F.S.; transferring provisions which provide a public records exemption for complaints and other records in the custody of any agency in the executive branch of state government which relate to a complaint of discrimination; expanding the exemption to provide for applicability to any agency rather than any agency in the executive branch of state government; amending s. 119.071, F.S.; reorganizing provisions; providing for review and repeal of the exemption; providing a statement of public necessity; amending s. 338.223, F.S.; conforming a cross-reference; providing an effective date.

—was read the third time by title.

On motion by Senator Posey, **HB 7033** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—38

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|---|---|---|
| Mr. President | Bennett | Dean |
| Alexander | Bullard | Deutch |
| Aronberg | Carlton | Dockery |
| Atwater | Constantine | Fasano |
| Baker | Crist | Gaetz |

| | | |
|---|---|---|
| Garcia | Lawson | Saunders |
| Geller | Lynn | Siplin |
| Haridopolos | Margolis | Storms |
| Hill | Oelrich | Villalobos |
| Jones | Peaden | Webster |
| Joyner | Posey | Wilson |
| Justice | Rich | Wise |
| King | Ring | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for HB 1429**—A bill to be entitled An act relating to mental health and substance abuse services; amending s. 394.9082, F.S.; providing legislative findings and intent; providing definitions; providing service delivery strategies; providing for data sharing agreements; establishing a process for the Department of Children and Family Services to contract with community-based managing entities; specifying criteria for contracts between the department and managing entities for the provision of behavioral health services; establishing goals for service delivery ; creating community-based systems of care; authorizing the implementation of managing entities by the department; specifying responsibilities of managing entities; specifying roles and responsibilities of the department; specifying management information system requirements; providing for evaluations and reports; providing for a monitoring process; providing rulemaking authority; providing an effective date.

—as amended April 30 was read the third time by title.

On motion by Senator Storms, **CS for HB 1429** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

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**CS for CS for SB 482**—A bill to be entitled An act relating to affordable housing; amending s. 193.018, F.S.; providing for the assessment of property receiving the low-income housing tax credit; defining the term "community land trust"; providing for the assessment of structural improvements, condominium parcels, and cooperative parcels on land owned by a community land trust and used to provide affordable housing; providing for the conveyance of structural improvements, condominium parcels, and cooperative parcels subject to certain conditions; specifying the criteria to be used in arriving at just valuation of a structural improvement, condominium parcel, or cooperative parcel; amending s. 212.055, F.S.; redefining the term "infrastructure" to allow the proceeds of a local government infrastructure surtax to be used to purchase land for the construction of affordable or workforce housing units; amending s. 420.503, F.S.; defining the term "moderate rehabilitation" for purposes of the Florida Housing Finance Corporation Act; amending s. 420.5087, F.S.; revising purposes for which State Apartment Incentive Loans may be used; amending s. 420.5095, F.S.; requiring that certain funds related to the Community Workforce Housing Innovation Pilot Program be made available for workforce housing for teachers and instructional personnel; requiring that the Florida Housing Finance Corporation select projects for funding based on certain criteria; amending s. 420.9071, F.S.; defining the terms "assisted housing," "assisted housing development," and "preservation"; revising the definition of "eligible housing," "local housing incentive strategies," and "recaptured funds" for purposes of the State Housing Initiatives Partnership Act; amending s. 420.9072, F.S.; revising provisions related to the administration of certain funds in the Local Government Housing Trust Fund; amending s. 420.9073, F.S.; revising requirements for distribution of funds in the Local Government Housing Trust Fund; specifying purposes for which such withheld funds may be used; clarifying purposes for which certain local governments may expend funds from the Local Government Housing Trust Fund; amending s. 420.9075, F.S.; requiring that local housing assistance plans address the special housing needs of persons with disabilities; authorizing the Florida Housing Finance Corporation to define "high-cost counties" by rule; authorizing high-cost counties or eligible municipalities within high-cost counties to assist persons meeting specific income requirements; revising requirements to be included in the local housing assistance plan; requiring counties and certain municipalities to include certain strategies in the local housing assistance plan; revising criteria that applies to awards made for the purpose of providing affordable housing; authorizing and limiting the percentage of funds from the local housing distribution that may be used for certain manufactured housing; extending the expiration date of an exemption from certain income requirements in specified areas; authorizing the use of certain funds for preconstruction activities; providing that certain costs are a program expense; authorizing counties and certain municipalities to award grant funds under certain conditions; providing for the repayment of funds by counties or certain municipalities; amending provisions related to the administration of certain funds in the Local Government Housing Trust Fund; amending s. 420.9076, F.S.; revising appointments to a local affordable housing advisory committee; deleting cross-references to conform to changes made by the act; deleting provisions related to the administration of certain funds by the Local Government Housing Trust Fund; amending s. 420.9079, F.S.; conforming cross-references; amending s. 421.08, F.S.; limiting the authority of housing authorities in certain circumstances; amending s. 1001.43, F.S.; revising district school board powers and duties in relation to use of land for affordable housing in certain areas for certain personnel; amending s. 159.807, F.S.; revising an exemption for the Florida Housing Finance Corporation from the applicability of certain uses of the state allocation pool; repealing s. 420.9078, F.S., relating to state administration of funds remaining in the Local Government Housing Trust Fund; amending ss. 212.08, 220.03, and 220.183, F.S.; conforming cross-references to changes made by the act; amending s. 624.5105, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

On motion by Senator Garcia, **CS for CS for SB 482** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Constantine | Justice | Villalobos |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

## SPECIAL ORDER CALENDAR

Consideration of **CS for CS for SB 474** was deferred.

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The Senate resumed consideration of—

**CS for CS for CS for SB 1978**—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S.; providing Senior Management Service status to the Executive Director of the Florida Transportation Commission; amending s. 125.42, F.S.; providing an exception to utility owners from the responsibility for relocating utilities along county roads and highways; amending s. 163.3177, F.S.; revising requirements for comprehensive plans; providing for airports, land adjacent to airports, and certain interlocal agreements relating thereto in certain elements of the plan; amending s. 163.3178, F.S.; providing that facilities determined by the Department of Community Affairs and the applicable general-purpose local government to be port-related industrial or commercial projects located within 3 miles of or in the port master plan area which rely upon the utilization of port and intermodal transportation facilities are not developments of regional impact under certain circumstances; amending s. 163.3180, F.S.; requiring the Department of Transportation to establish a transportation methodology to serve as the basis for sustainable development impact assessments; defining the terms "present value" and "backlogged transportation facility"; amending s. 163.3182, F.S., relating to transportation concurrency backlog authorities; providing legislative findings and declarations; expanding the power of authorities to borrow money to include issuing certain debt obligations; providing a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects; authorizing authorities to continue operations and administer certain trust funds for the period of the remaining outstanding debt; requiring local transportation concurrency backlog trust funds to continue to be funded for certain purposes; providing for increased ad valorem tax increment funding for such trust funds under certain circumstances; revising provisions for dissolution of an authority; providing legislative findings relating to investment of funds from the Lawton Chiles Endowment Fund in Florida infrastructure by the State Board of Administration; providing that such investment is the policy of the State Board of Administration; amending s. 215.44, F.S.; including infrastructure investments in annual reporting requirements of State Board of Administration; amending s. 215.47, F.S.; increasing the maximum allowable percent of any fund in alternative investments or infrastructure investments; defining infrastructure investments; amending s. 215.5601, F.S.; directing the State Board of Administration to lease Alligator Alley for up to 50 years from the Department of Transportation using funds from the Lawton Chiles Endowment; limiting the investment of funds to between 20 and 50 percent of the endowment's assets; requiring a report to the Legislature; authorizing the board to contract with other government, public, and private entities to operate and maintain the toll facility; creating s. 334.305, F.S.; providing a finding of public need for leasing transportation facilities to expedite provision of additional facilities; providing that infrastructure investment agreements may not be impaired by state or local act; authorizing a lease agreement of up to 50 years for Alligator Alley; authorizing the engagement of private consultants to develop the agreement; directing funds received by the department under such provisions to the State Transportation Trust Fund; providing requirements for the lease agreement; requiring adherence to state and federal laws and standards for the operation and maintenance of transportation facilities; requiring the regulation of toll increases; authorizing state action to remedy impairments to the lease agreement; requiring an independent cost-effectiveness analysis and traffic and revenue study; limiting the use of funds received under the act to transportation uses; requiring specifications for construction, engineering, maintenance, and law enforcement activities in lease agreements; allowing the department to submit to the Legislative Budget Commission a plan for advancing transportation projects using funds received from a lease; requiring remaining toll revenue to be used in accordance with the lease agreement and s. 338.26, F.S.; confirming the ability of the State Board of Administration to invest in government-owned infrastructure; providing legislative intent relating to road rage and aggressive careless driving; amending s. 316.003, F.S.; defining the term "road rage"; amending s. 316.083, F.S.; requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions; amending s. 316.1923, F.S.; revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless driving; specifying the allocation of moneys received from the increased fine imposed for aggressive careless driving; amending s. 318.19, F.S.; providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; providing for the disposition of the increased penalties; requiring the Department of Highway Safety and Motor Vehicles to provide information about road rage and aggressive careless driving in driver's license educational materials; reenacting s. 316.650(1)(a), F.S., relating to traffic citations, to incorporate the amendments made to s. 316.1923, F.S., in a reference thereto; amending s. 316.0741, F.S.; redefining the term "hybrid vehicle"; authorizing the driving of a hybrid, low-emission, or energy-efficient vehicle in a high-occupancy-vehicle lane regardless of occupancy; authorizing the department to limit or discontinue such driving under certain circumstances; exempting such vehicles from the payment of certain tolls; amending s. 316.193, F.S.; lowering the blood-alcohol or breath-alcohol level for which enhanced penalties are imposed against a person who was accompanied in the vehicle by a minor at the time of the offense; clarifying that an ignition interlock device is installed for a continuous period; amending s. 316.302, F.S.; revising the application of certain federal rules; providing for the department to perform certain duties assigned under federal rules; updating a reference to federal provisions governing out-of-service requirements for commercial vehicles; amending ss. 316.613 and 316.614, F.S.; revising the definition of "motor vehicle" for purposes of child restraint and safety belt usage requirements; amending s. 316.656, F.S.; lowering the percentage of blood or breath alcohol content relating to the prohibition against pleading guilty to a lesser offense of driving under the influence than the offense charged; amending s. 320.03, F.S.; revising the amount of a nonrefundable fee that is charged on the initial and renewal registration for certain automobiles and trucks; amending s. 322.64, F.S.; providing that refusal to submit to a breath, urine, or blood test disqualifies a person from operating a commercial motor vehicle; providing a period of disqualification if a person has an unlawful blood-alcohol or breath-alcohol level; providing for issuance of a notice of disqualification; revising the requirements for a formal review hearing following a person's disqualification from operating a commercial motor vehicle; amending s. 336.41, F.S.; providing that a county, municipality, or special district may not own or operate an asphalt plant or a portable or stationary concrete batch plant having an independent mixer; amending s. 337.11, F.S.; establishing a goal for the procurement of design-build contracts; amending s. 337.18, F.S.; revising the recording requirements of payment and performance bonds; amending s. 337.185, F.S.; providing for maintenance contracts to be included in the types of claims settled by the State Arbitration Board; amending s. 337.403, F.S.; providing for the department or a local governmental entity to pay the costs of removing or relocating a utility that is interfering with the use of a road or rail corridor; amending s. 338.01, F.S.; requiring that newly installed electronic toll collection systems be interoperable with the department's electronic toll collection system; amending s. 338.165, F.S.; providing that provisions requiring the continuation of tolls following the discharge of bond indebtedness does not apply to high-occupancy toll lanes or express lanes; creating s. 338.166, F.S.; authorizing the department to request that bonds be issued which are secured by toll revenues from high-occupancy toll or express lanes in a specified location; providing for the department to continue to collect tolls after discharge of indebtedness; authorizing the use of excess toll revenues for improvements to the State Highway System; authorizing the implementation of variable rate tolls on high-occupancy toll lanes or express lanes; amending s. 338.2216, F.S.; directing the turnpike enterprise to develop new technologies and processes for the collection of tolls and usage fees; prohibiting the enterprise from entering into certain joint contracts for the sale of fuel and other goods; providing an exception; providing restrictions on contracts pertaining to service plazas; amending s. 338.223, F.S.; conforming a cross-reference; amending s. 338.231, F.S.; eliminating reference to uniform toll rates on the Florida Turnpike System; authorizing the department to fix by rule and collect the amounts needed to cover toll collection costs; directing the turnpike enterprise to increase tolls; amending s. 339.12, F.S.; clarifying a provision specifying a maximum total amount of project agreements for certain projects; authorizing the department to enter into certain agreements with counties having a specified maximum population; defining the term "project phase"; requiring that a project or project phase be a high priority of a governmental entity; providing for reimbursement for a project or project phase; specifying a maximum total amount for certain projects and project phases; requiring that such project be included in the local government's adopted comprehensive plan; authorizing the department to enter into long-term repayment agreements up to a specified maximum length; amending s. 339.135, F.S.; revising certain notice provisions that require the Department of Transportation to notify local governments regarding amendments to an adopted 5-year work program; amending s. 339.155, F.S.; revising provisions for development of the Florida Transportation Plan; amending s. 339.2816, F.S., relating to the small county road assistance program; providing for resumption of certain funding for the

program; revising the criteria for counties eligible to participate in the program; amending ss. 339.2819 and 339.285, F.S.; conforming cross-references; amending s. 348.0003, F.S.; providing for financial disclosure for expressway, transportation, bridge, and toll authorities; amending s. 348.0004, F.S.; providing for certain expressway authorities to index toll rate increases; repealing part III of ch. 343 F.S.; abolishing the Tampa Bay Commuter Transit Authority; requiring the department to conduct a study of transportation alternatives for the Interstate 95 corridor; amending s. 409.908, F.S.; authorizing the Agency for Health Care Administration to continue to contract for Medicaid nonemergency transportation services in a specified agency service area with managed care plans under certain conditions; amending s. 427.011, F.S.; revising definitions; defining the term "purchasing agency"; amending s. 427.012, F.S.; revising the number of members required for a quorum at a meeting of the Commission for the Transportation Disadvantaged; amending s. 427.013, F.S.; revising responsibilities of the commission; deleting a requirement that the commission establish by rule acceptable ranges of trip costs; removing a provision for functioning and oversight of the quality assurance and management review program; requiring the commission to incur expenses for promotional services and items; amending s. 427.0135, F.S.; revising and creating duties and responsibilities for agencies that purchase transportation services for the transportation disadvantaged; providing requirements for the payment of rates; requiring an agency to negotiate with the commission before procuring transportation disadvantaged services; requiring an agency to identify its allocation for transportation disadvantaged services in its legislative budget request; amending s. 427.015, F.S.; revising provisions relating to the function of the metropolitan planning organization or designated official planning agency; amending s. 427.0155, F.S.; revising duties of community transportation coordinators; amending s. 427.0157, F.S.; revising duties of coordinating boards; amending s. 427.0158, F.S.; deleting provisions requiring the school board to provide information relating to school buses to the transportation coordinator; providing for the transportation coordinator to request certain information regarding public transportation; amending s. 427.0159, F.S.; revising provisions relating to the Transportation Disadvantaged Trust Fund; providing for the deposit of funds by an agency purchasing transportation services; amending s. 427.016, F.S.; providing for construction and application of specified provisions to certain acts of a purchasing agency in lieu of the Medicaid agency; requiring that an agency identify the allocation of funds for transportation disadvantaged services in its legislative budget request; amending s. 479.01, F.S.; redefining the term "automatic changeable facing" as used in provisions governing outdoor advertising; amending s. 479.07, F.S.; revising the locations within which signs require permitting; providing requirements for the placement of permit tags; requiring the department to establish by rule a service fee and specifications for replacement tags; amending s. 479.08, F.S.; deleting a provision allowing a sign permittee to correct false information that was knowingly provided to the department; requiring the department to include certain information in the notice of violation; amending s. 479.156, F.S.; modifying local government control of the regulation of wall murals adjacent to certain federal highways; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; deleting provisions providing for permits to be awarded to the highest bidders; requiring the department to implement a rotation-based logo program; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for sign locations inside and outside an urban area; amending s. 212.0606, F.S.; providing for the imposition by countywide referendum of an additional surcharge on the lease or rental of a motor vehicle; providing the proceeds of the surcharge to be transferred to the Local Option Fuel Tax Trust Fund and used for the construction and maintenance of commuter rail service facilities; amending s. 341.301, F.S.; providing definitions relating to commuter rail service, rail corridors, and railroad operation for purposes of the rail program within the department; amending s. 341.302, F.S.; authorizing the department to purchase specified property for the purpose of implementing commuter rail service; authorizing the department to assume certain liability on a rail corridor; authorizing the department to indemnify and hold harmless a railroad company when the department acquires a rail corridor from the company; providing allocation of risk; providing a specific cap on the amount of the contractual duty for such indemnification; authorizing the department to purchase and provide insurance in relation to rail corridors; authorizing marketing and promotional expenses; extending provisions to other governmental entities providing commuter rail service on public right-of-way; amending s. 768.28, F.S.; expanding the list of entities considered agents of the state; providing for construction in relation to certain federal laws; authorizing the expenditure of public funds for certain alterations of Old Cutler Road in the Village of Palmetto Bay; requiring the official approval of the Department of State before any alterations may begin; providing an effective date.

—which was previously considered April 30 with pending **Amendment 1 (037438)** by Senator Dockery and pending point of order by Senator Villalobos.

On motion by Senator Baker, further consideration of **CS for CS for CS for SB 1978** with pending **Amendment 1 (037438)** and pending point of order was deferred.

## REPORTS OF COMMITTEES RELATING TO EXECUTIVE BUSINESS

The Honorable Ken Pruitt May 1, 2008
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Jacksonville Aviation Authority | | |
| Appointee: | Demetree, Jack C. | 09/30/2011 |
| Board of Architecture and Interior Design | | |
| Appointees: | Ehrig, John P. | 10/31/2011 |
| | Gustafson, Garrick A. | 10/31/2010 |
| | Hall, E. Wendell | 10/31/2011 |
| | Shore, Joyce | 10/31/2010 |
| | Solera, Lourdes | 10/31/2009 |
| Florida Building Commission | | |
| Appointee: | Franco, Angel T. | 08/11/2011 |
| Board of Chiropractic Medicine | | |
| Appointee: | Jones, Roderick C. | 10/31/2010 |
| Florida Communities Trust | | |
| Appointee: | Self, Lynette | 01/31/2011 |
| Board of Trustees of Broward Community College | | |
| Appointee: | Tanner, Paul C. | 05/31/2011 |
| Board of Trustees of Indian River Community College | | |
| Appointee: | Roden, Gerald T. | 05/31/2011 |
| Board of Trustees of Lake City Community College | | |
| Appointees: | Randolph, Athena | 05/31/2011 |
| | Riherd, Thomas M. II | 05/31/2011 |
| Board of Trustees of Lake-Sumter Community College | | |
| Appointee: | Kelly, Kenneth W. | 05/31/2011 |
| Board of Trustees of Tallahassee Community College | | |
| Appointees: | Hebrock, Bill J. | 05/31/2011 |
| | Lamb, Eugene, Jr. | 05/31/2010 |
| Board of Cosmetology | | |
| Appointees: | Fincel, Ginny Adair | 10/31/2010 |
| | Llano, Candido Jesus | 10/31/2008 |
| State Board of Education | | |
| Appointee: | Desai, Akshay M. | 12/31/2010 |
| Education Practices Commission | | |
| Appointees: | Cwynar, Ann M. | 09/30/2009 |
| | Donovan, Brian T. | 09/30/2011 |
| | Gonzalez, Libia A. | 09/30/2009 |
| | Shepard, Deborah | 09/30/2009 |
| | Strauss, Mark S. | 09/30/2011 |
| | Williams, Frederick A. | 09/30/2011 |
| Electrical Contractors' Licensing Board | | |
| Appointees: | Flaherty, Brian | 10/31/2011 |
| | Hoffmann, Kenneth | 10/31/2011 |

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| | Tibbs, Clarence Kelley | 10/31/2011 |
| Board of Professional Engineers | | |
| Appointees: | Earle, Jonathan Franklin | 10/31/2009 |
| | Tomasino, Paul | 10/31/2009 |
| Commission on Ethics | | |
| Appointee: | Handfield, Larry R. | 06/30/2009 |
| Higher Educational Facilities Financing Authority | | |
| Appointee: | Rieck, David W. | 01/17/2012 |
| Citrus County Hospital Board | | |
| Appointee: | Rao, V. Upender | 07/03/2011 |
| Board of Trustees of South Lake County Hospital District | | |
| Appointees: | Drawdy, Rodney E. | 07/05/2011 |
| | Hari, Aashiv N. | 07/05/2011 |
| Commission for Independent Education | | |
| Appointee: | Royse, Marvin W. | 06/30/2009 |
| Florida Inland Navigation District | | |
| Appointee: | Kavanagh, Gail | 01/09/2011 |
| Board of Medicine | | |
| Appointees: | Espinola, Trina E. | 10/31/2011 |
| | Levine, Bradley M. | 10/31/2008 |
| | Winchester, Gary E. | 10/31/2011 |
| National Conference of Commissioners on Uniform State Laws | | |
| Appointee: | Romanello, Nicholas William | 06/05/2011 |
| Board of Optometry | | |
| Appointees: | Del Moral, Rebecca | 10/31/2011 |
| | Naberhaus, Terrance W. | 10/31/2010 |
| Board of Orthotists and Prosthetists | | |
| Appointee: | Price, Charles T. | 10/31/2009 |
| Board of Physical Therapy Practice | | |
| Appointees: | Hellman, Madeleine | 10/31/2010 |
| | McBreen-Babb, Amy | 10/31/2009 |
| | Middleton, Marilyn J. | 10/31/2011 |
| Florida Real Estate Commission | | |
| Appointees: | Enzor, Roger P. | 10/31/2011 |
| | Guju, Michael J. | 10/31/2008 |
| Apalachee Regional Planning Council, Region 2 | | |
| Appointees: | Chapman, Ellen Y. | 10/01/2009 |
| | Radford, Dawn E. | 10/01/2009 |
| | Wade, Kendall | 10/01/2009 |
| Withlacoochee Regional Planning Council, Region 5 | | |
| Appointee: | Abshier, R. Edward, Jr. | 10/01/2010 |
| Tampa Bay Regional Planning Council, Region 8 | | |
| Appointee: | Vance, Kim Hernandez | 10/01/2009 |
| Southwest Florida Regional Planning Council, Region 9 | | |
| Appointee: | LeBeau, Alan Lee, Sr. | 10/01/2009 |
| Jacksonville Port Authority | | |
| Appointee: | Gaffney, Reginald | 09/30/2011 |
| Space Florida | | |
| Appointee: | Walker, John H. | 06/30/2011 |
| Jacksonville Transportation Authority | | |
| Appointee: | Burr, Edward E. | 05/31/2011 |
| Unemployment Appeals Commission | | |
| Appointee: | Adams, John L. | 06/30/2011 |
| Board of Veterinary Medicine | | |
| Appointee: | Hurley, Lisa M. | 10/31/2008 |
| Coastal Rivers Basin Board of the Southwest Florida Water Management District | | |
| Appointee: | Nicolette, John M. | 03/01/2009 |
| Hillsborough River Basin Board of the Southwest Florida Water Management District | | |
| Appointee: | Higginbotham, Devon B. | 03/01/2010 |
| Peace River Basin Board of the Southwest Florida Water Management District | | |
| Appointee: | Crisman, Patricia C. | 03/01/2010 |
| Withlacoochee River Basin Board of the Southwest Florida Water Management District | | |
| Appointee: | Nathe, Patricia M. | 03/01/2009 |

The following executive appointments were referred to the Senate Committee on Commerce and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Florida Black Business Investment Board, Inc. | | |
| Appointee: | Nembhard, Mortlake | 06/30/2010 |
| Board of Directors, Enterprise Florida, Inc. | | |
| Appointees: | Campbell, Ronald J. | 07/01/2010 |
| | Falconetti, John | 07/01/2011 |
| | McCarty, Kevin | 07/01/2011 |

The following executive appointments were referred to the Senate Committee on Criminal Justice and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Secretary of Corrections | | |
| Appointee: | McNeil, Walter A. | Pleasure of Governor |
| Criminal Conflict and Civil Regional Counsel - First District Court of Appeal | | |
| Appointee: | Lewis, Jeffrey E. | 07/01/2011 |
| Criminal Conflict and Civil Regional Counsel - Second District Court of Appeal | | |
| Appointee: | Flyte, Jackson S. | 07/01/2011 |
| Criminal Conflict and Civil Regional Counsel - Third District Court of Appeal | | |
| Appointee: | George, Joseph P., Jr. | 07/01/2011 |
| Criminal Conflict and Civil Regional Counsel - Fourth District Court of Appeal | | |
| Appointee: | Massa, Philip J. | 07/01/2011 |
| Criminal Conflict and Civil Regional Counsel - Fifth District Court of Appeal | | |
| Appointee: | Deen, Jeffrey D. | 07/01/2011 |
| Secretary of Juvenile Justice | | |
| Appointee: | Peterman, Frank W., Jr. | Pleasure of Governor |
| Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc. | | |
| Appointees: | Dresser, William | 09/30/2010 |
| | Reeves, James J. | 09/30/2011 |

The following executive appointments were referred to the Senate Committee on Environmental Preservation and Conservation and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Fish and Wildlife Conservation Commission | | |
| Appointees: | Bergeron, Ronald M. | 08/01/2012 |
| | Corbett, Richard A. | 01/06/2013 |
| | Jossim, Kathy Barco | 08/01/2012 |
| | Stephenson, Dwight | 01/06/2012 |
| | Wright, Kenneth W. | 08/01/2012 |
| Governing Board of the Northwest Florida Water Management District | | |
| Appointees: | Antonacci, Peter | 03/01/2012 |
| | McMillan, Philip K. | 03/01/2011 |
| Executive Director of Northwest Florida Water Management District | | |
| Appointee: | Barr, Douglas E. | Pleasure of The Board |
| Governing Board of the St. Johns River Water Management District | | |
| Appointees: | Ertel, Michael C. | 03/01/2011 |
| | Huffman, Hersey A. | 03/01/2011 |
| | Jumper, Arlen N. | 03/01/2011 |
| Executive Director of St. Johns River Water Management District | | |
| Appointee: | Green, Kirby B. III | Pleasure of The Board |
| Governing Board of the South Florida Water Management District | | |
| Appointees: | Huck, Paul C., Jr. | 03/01/2012 |
| | Montgomery, Robert G. | 03/01/2012 |
| Executive Director of South Florida Water Management District | | |
| Appointee: | Wehle, Carol Ann | Pleasure of The Board |
| Governing Board of the Southwest Florida Water Management District | | |
| Appointees: | Joerger, Albert G. | 03/01/2011 |
| Governing Board of the Suwannee River Water Management District | | |
| Appointee: | Davidson, Charles Linden | 03/01/2011 |
| Executive Director of Suwannee River Water Management District | | |
| Appointee: | Still, David | Pleasure of The Board |

The following executive appointments were referred to the Senate Committee on Governmental Operations and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Investment Advisory Council | | |
| Appointees: | Hill, John H., Jr. | 12/12/2011 |
| | Jaeb, John R. | 12/12/2011 |
| | Konrad, Robert L. | 12/12/2010 |
| | McCague, Beth Ayers | 12/12/2010 |

The following executive appointment was referred to the Senate Committee on Health Policy and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Secretary of Health Care Administration | | |
| Appointee: | Benson, Anna Holliday | Pleasure of Governor |

The following executive appointments were referred to the Senate Committee on Higher Education and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Board of Trustees, Florida A & M University | | |
| Appointees: | Badger, Solomon L. III | 01/06/2010 |
| | Brown, Robert J. | 01/06/2010 |
| | Dent, Richard A. III | 01/06/2011 |
| | Jennings, C. W. | 01/06/2013 |
| | Langston, Charles | 01/06/2013 |
| | White, Karl E. | 01/06/2011 |
| Board of Trustees, Florida Atlantic University | | |
| Appointees: | Plymale, Sherry | 01/06/2013 |
| | Workman, Thomas, Jr. | 01/06/2013 |
| Board of Trustees, University of Central Florida | | |
| Appointee: | Rosen, Harris | 01/06/2013 |
| Board of Trustees, Florida State University | | |
| Appointees: | Busch-Transou, Susan | 01/06/2013 |
| | Kinsey, James E., Jr. | 01/06/2013 |
| Board of Trustees, Florida Gulf Coast University | | |
| Appointees: | Lutgert, Scott F. | 01/06/2013 |
| | St. Cerny, Douglas R. | 01/06/2013 |
| Board of Trustees, Florida International University | | |
| Appointees: | Arrizurieta, Jorge L. | 01/06/2013 |
| | Maury, Albert | 01/06/2011 |
| Board of Trustees, New College of Florida | | |
| Appointee: | Peterson, John Robert | 01/06/2013 |
| Board of Trustees, University of Florida | | |
| Appointees: | Scott, Steven M. | 01/06/2013 |
| | Warrington, Alfred C. IV | 01/06/2013 |
| Board of Trustees, University of North Florida | | |
| Appointees: | Greene, A. Hugh | 01/06/2010 |
| | Korman, Joy G. | 01/06/2013 |
| | Twomey, Kevin M. | 01/06/2013 |
| Board of Trustees, University of South Florida | | |
| Appointees: | Engle, Walter E. "Gene" | 01/06/2013 |
| | Law, Rhea F. | 01/06/2013 |
| Board of Trustees, University of West Florida | | |
| Appointees: | Horner, Charles A. | 01/06/2013 |
| | Merrill, J. Collier | 01/06/2013 |

The following executive appointments were referred to the Senate Committee on Transportation and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

| *Office and Appointment* | | *For Term Ending* |
|---|---|---|
| Tampa-Hillsborough County Expressway Authority | | |
| Appointee: | Diaco, Stephen C. | 07/01/2010 |
| Florida Transportation Commission | | |
| Appointees: | Criser, Marshall M. III | 09/30/2011 |
| | Pullum, Bart R. | 09/30/2010 |

The following executive appointment was referred to the Senate Committee on Transportation and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate. The Senate Committee on Transportation did not consider the following appointment during the 2008 Regular Session. The Senate Committee on Ethics and Elections considered and recommended the executive appointment for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

| *Office and Appointment* | *For Term Ending* |
|---|---|
| Tampa-Hillsborough County Expressway Authority | |
| Appointee: | |
| Phillips, Donald E. | 07/01/2008 |

The following executive appointment was referred to the Senate Committee on Higher Education and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

The Senate Committee on Ethics and Elections conducted an inquiry concerning the qualifications of the appointee, however, please be advised that the Committee on Higher Education and the Committee on Ethics and Elections did not hold a public hearing for this appointee during the 2008 Regular Session of the Florida Legislature.

| *Office and Appointment* | *For Term Ending* |
|---|---|
| Board of Trustees, University of Florida | |
| Appointee: Ponce, S. Daniel | 01/06/2011 |

As required by Rule 12.7(1), the committees held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of the appointees.

After due consideration of the findings of such inquiry and the evidence presented at the public hearing, the Committee on Ethics and Elections and other referenced committees respectfully advise and recommend pursuant to the authority granted in Article IV, Section 6 (a), Florida Constitution, and in accordance with Section 114.05(1), Florida Statutes:

(1) the executive appointments of the above-named appointees, to the office and for the term indicated, be confirmed by the Senate;

(2) Senate action on said appointments be taken prior to the adjournment of the 2008 Regular Session; and

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

Respectfully Submitted,
*Lee Constantine*, Chair

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

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

**DISCLOSURE**

I wish to disclose that Item #4 on today's Report by the Committee on Ethics and Elections relates to the confirmation of my son, Roderick C. Jones' appointment to the Board of Chiropractic Medicine.

This appointment does not provide any special private gain for me, and I have been advised disclosure is not required under these specific circumstances. However, in an abundance of caution and to avoid even a perception of impropriety, I am requesting you include this letter in the permanent journal of the Senate pursuant to Rule 1.39.

Sincerely,
*Dennis L. Jones, D.C.,*
13th District

**DISCLOSURE**

I wish to disclose that Item #68 on today's Report by the Committee on Ethics and Elections relates to the confirmation of Jorge L. Arrizurieta, on the Board of Trustees, Florida International University.

I wish to abstain from voting on his appointment as he is a member of my law firm.

*J. Alex Villalobos,*
38th District

**VOTES RECORDED**

Senators Garcia and Villalobos were recorded as voting "nay" on the appointment of Marshall M. Criser III to the Florida Transportation Commission.

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

## BILLS ON THIRD READING

**CS for HB 197**—A bill to be entitled An act relating to pest control; creating s. 570.345, F.S., the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; providing an effective date.

—was read the third time by title.

**MOTION**

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

Senators Dean and Alexander offered the following amendments which were moved by Senator Dean and adopted by two-thirds vote:

**Amendment 1 (809092)(with title amendment)**—Delete line(s) 474 and insert:

Section 2. Section 823.145, Florida Statutes, is amended to read:

823.145 Disposal by open burning of *materials* ~~mulch plastic~~ used in agricultural operations.—Polyethylene *agricultural* ~~mulch~~ plastic*; damaged, nonsalvageable, untreated wood pallets; and packing material that cannot feasibly be recycled, that are* used in *connection with* agricultural

operations *related to the growing, harvesting, or maintenance of crops,* may be disposed of by open burning provided that no public nuisance or any condition *that adversely affects the environment or* ~~affecting~~ the public health is created ~~thereby~~ and that state or federal national ambient air quality standards are not violated.

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete line(s) 2-35 and insert: An act relating to agriculture; creating s. 570.345, F.S.; establishing the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; amending s. 823.145, F.S.; revising the kinds of materials used in agricultural operations which can be openly burned; providing limitations;

**Amendment 2 (235658)(with title amendment)**—Delete line(s) 474 and insert:

Section 2. Section 500.70, Florida Statutes, is created to read:

*500.70 Food safety practices relating to tomatoes.—A tomato farmer, packer, repacker, or handler that implements applicable good agricultural practices and best-management practices in accordance with rules adopted by the department is considered to have acted in good faith, with reasonable care, and in compliance with state food safety microbial standards or guidelines unless a violation of, or noncompliance with, such measures can be shown through inspections.*

Section 3. Subsection (10) 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:

(10) To act as adviser to producers and distributors, when requested, and to assist them in the economical and efficient distribution of their agricultural products and to encourage cooperative effort among producers to gain economical and efficient production of agricultural products. *The department may adopt by rule, pursuant to s. 120.536(1) and s. 120.54, comprehensive best-management practices for agricultural production and food safety.*

Section 4. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete line(s) 2-35 and insert: An act relating to agriculture; creating s. 570.345, F.S.; establishing the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; creating s. 500.70, F.S.; providing that a tomato farmer, packer, repacker, or handler that implements certain practices is considered to be acting in good faith; amending s. 570.07, F.S.; authorizing the Department of Agriculture and Consumer Services to adopt rules relating to best-management practices for agricultural production and food safety;

**Amendment 3 (251906)(with title amendment)**—Delete line(s) 474 and insert:

Section 2. Subsection (1) of section 604.15, Florida Statutes, is amended to read:

604.15 Dealers in agricultural products; definitions.—For the purpose of ss. 604.15-604.34, the following words and terms, when used, shall be construed to mean:

(1) "Agricultural products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary (raw or manufactured); sod; ~~tropical foliage;~~ horticulture; hay; livestock; milk and milk products; poultry and poultry products; the fruit of the saw palmetto (meaning the fruit of the Serenoa repens); limes (meaning the fruit Citrus aurantifolia, variety Persian, Tahiti, Bearss, or Florida Key limes); and any other nonexempt agricultural products produced in the state, except tobacco, sugarcane, *tropical foliage,* timber and timber byproducts, forest products as defined in s. 591.17, and citrus other than limes.

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete line(s) 2-35 and insert: An act relating to agriculture; creating s. 570.345, F.S.; establishing the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for

construction and severability; amending s. 604.15, F.S.; revising the term "agricultural products" to delete tropical foliage;

**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 by two-thirds vote:

**Amendment 4 (559082)(with title amendment)**—Delete line(s) 474 and insert:

Section 2. Subsection (4) is added to section 525.037, Florida Statutes, to read:

525.037 Petroleum fuel standards.—

*(4) A terminal supplier that offers for sale or distribution blended gasoline must offer for sale or distribution unblended gasoline with a minimum octane rating of 87 for exempt uses pursuant to s. 526.203(3).*

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete line(s) 2-35 and insert: An act relating to agriculture; creating s. 570.345, F.S.; establishing the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; amending s. 525.037, F.S.; revising petroleum fuel standards to require terminal suppliers to provide unblended gasoline for certain purposes;

On motion by Senator Alexander, **CS for HB 197** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

## RECOGNITION OF THE PRESIDENT PRO TEMPORE

**President Pruitt:** Senators, as you can imagine, today's farewell tribute to our Co-Prez, Lisa Carlton, isn't going to be easy.

So much time, discussion, and thought went into this presentation. I have to say, it has been difficult to try and capture all that she means, all that she's given, all that she's accomplished during her service in the Florida Legislature. But I am going to try to do my best.

I thought I would begin with a few small and simple words that carry with them strength in their meanings. Descriptions that are small, but strong, are fitting for her, don't you agree? Trusted, determined, loyal, even-handed and selfless.

In my office, on a shelf, sits a small piece of marble with an etched quote attributed to former President Ronald Reagan. It reads: "There's no limit to what a person can do, or where they can go, if they don't mind who gets the credit."

Senators, that quote perfectly describes the way Senator Carlton has gone about her work in the Legislature. She has been at the forefront of nearly every major issue over the last decade, but that is not something she wears on her sleeve.

Many people may not remember, but the very first bill which passed the House under Speaker Daniel Webster and the newly elected Republican majority was sponsored by none other than Lisa Carlton. She was the "go-to" person back then, and she's been the "go-to" person for almost all of the presiding officers since.

From Medicaid reform to the post-presidential recount elections package, from voluntary pre-K to our education reform amendment this year, Lisa Carlton has been the tenacious and trusted sponsor shepherding complex issues through the legislative process. Yet, as impressive as this list may be, none of these issues were selected as her "marquee bill."

The legislation that we picked for her doesn't have a particular backstory or notable defining moment. No, Senators, it's not the words that tell the story, but rather the visual that you get when you understand what is in this frame.

Senators, before you is the first page of every budget that passed under Appropriations Chair Lisa Carlton: 2002, 2005, 2006, 2007 and 2008. When you total up all of these budgets, it amounts to $325 billion. I'm told that is about half the size of her shoe budget, but I haven't verified it.

It's significant that she has been at the helm of the ship during some of the most prosperous budgets, and some of the very leanest. When there's lots of money there can be as many challenges as when there's very little money, yet Lisa Carlton has handled them all very, very well.

Senators, the Appropriations Chair, whether it is on the local, state or federal level, is vested with tremendous authority. It is a rare thing to find someone who has so much influence and yet who has never, ever wielded it for themselves. Senator Carlton doesn't operate from a seat of power, but rather from a position of strength.

Senators, Lisa Carlton calls 'em like she sees 'em, which is why her even-handed, unpretentious, firewall-protected perspective is so valuable.

I guess the best way for me to sum it all up would be this: Every legislature needs a "Lisa Carlton." I cannot adequately express how truly blessed I am to have had her as my trusted friend, wise advisor, and cherished Co-Prez.

Lisa, thank you for your service to the State of Florida. We are truly going to miss you.

**Senator Webster:** Do you see that smile up there? Just before that she mouthed "No" to somebody. Have you ever had that happen? She says it in such a gracious way. One time, I told her "No." I have been sorry for it ever since. She was an aide to Jim Lombard and wanted to be in the House of Representatives. I was the designated Leader and she came to me and said she would be running. I had this policy, that I still have today, that I don't re-win seats that we already own. That means

she was running in a primary against one of our incumbents. She came in, and politely told me what she was doing. I said, "I have this policy. However, if you get here, you will benefit from it." Then I told her what it was and said, "I can't support you." She walked out. She was very gracious about it, and went home and wrote me. I still have it. A very nice note—"Thank you for what you did." And she signed it "See you soon." It worked. She got here and has been here ever since.

Lisa has been a fantastic member of the House and Senate. She is a person, just as the President described, who goes about her business and gets a very difficult job done. I am so privileged just to say I know Lisa Carlton. It's been a privilege, Lisa, just to know you and to serve with you. You're an awesome person.

I am able today to settle a dispute in your family. I can't settle all of your disputes, but I can settle one with this gift we have gotten for you. I want you to open it up and you'll understand why it settles a dispute between you and Rob.

She has been begging her husband to buy the Senate china. He wouldn't buy them because the President told him not to, because we were buying them! We have settled, today, that dispute in Lisa's life. Lisa, please stand and show them to everyone; it's a beautiful set of china. The rest of the set is where they have always been, in the closet that Kathy would never let you look in, in the President's office where he keeps all his little things that he is giving out.

Senator Carlton, thank you for your service. This gift is just a small token of appreciation from every one of the members here. We wanted to give you something visible, tangible and also something that would settle a dispute in your family. God bless you and your family. May those dishes be a constant reminder of every one of the members in this Legislature.

**Senator Saunders:** It is truly an honor to be able to say a few words about my good friend and colleague, Co-President, Senator Lisa Carlton. I met Lisa Carlton during the 1994 Organization Session of the Florida House, as we both started our political careers. I was fortunate to sit next to her in the House chamber for the next two years.

My twin sons were born one month before that first session, and Lisa Carlton seemed to be pregnant for the next four years. So, we had a lot in common, we were new to the Legislature and we were new to parenthood. I not only learned from her which bills were good and which ones were not, but also received valuable child rearing assistance.

Lisa's decision to run for the Senate in 1998, left me with no alternative but to do the same. But, she did it the right way! I will always be envious of her ability to keep all opponents off the ballot - and to walk into the Senate with no opposition. The fact that she had no opposition is a testament to her popularity in her district! No one could possibly successfully challenge her. She had no opposition because she is beloved in her district; and, she serves her community very well and ably.

Senator Carlton's capabilities were immediately recognized by Senate leadership. She was tapped to be Chair of Appropriations and has served in that capacity for five years. That must be a record!

Lisa, as Chair of Appropriations, your true capabilities and leadership skills have been evident. No one could have done a better job, especially during these last two challenging budget cycles. Saying "No" to members looking for money is never easy, but you were able to hold the line on spending, say "No" when appropriate, and do it in such a way that no one felt they were being treated unfairly.

I remember one event that illustrates your intelligence, leadership skill, and ability to get the job done. It was during the debate between the Senate and former Governor Jeb Bush concerning the effort to move all of our Medicaid patients into HMOs. Lieutenant Governor Toni Jennings presented a detailed plan to a small group of us negotiating on behalf of the Senate. You were the lead negotiator for the Senate. You had done your homework. You knew all of the facts and policy implications. The Governor's plan was to roll out managed care across the state for all Medicaid patients, a plan that could have put Medicaid recipients at risk.

After the lengthy explanation by Lieutenant Governor Jennings, you simply said, and I quote, "Nope, we can't do that." You left no room for the Governor, and, the Lieutenant Governor folded like a house of cards. Now, that was Toni Jennings, and we all know she is no shrinking violet. The Senate position for a modest pilot project prevailed.

You were able to accomplish that smoothly and quickly because of the high esteem to which you are held by everyone involved in this process, including former Governor Bush and Lieutenant Governor Jennings. They knew that you were fully supported by the entire Senate.

You have always been forceful and effective, but in a way that is never offensive. I compared you to Margaret Thatcher on Tuesday because of your Iron Will and competence, but you are much prettier than she!

President Pruitt recognized your talents and put you to work, not only as Chair of Appropriations, but as our President Pro Tempore, our Co-President! These last two years you have done an outstanding job under very difficult circumstances. But, you have always done an outstanding job!

You will be missed in the Senate. But, I will be looking forward to watching you. I know you are not finished with politics. You have too much to offer; and Florida needs you.

I hope to be one of your biggest supporters when you run for Governor. Senator Carlton, we all love you and wish you the best!

**Senator Rich:** Lisa, I have such tremendous respect for you on a lot of counts. Nobody has mentioned something that I think that is incredibly important and that is that you have done an amazing job of balancing work and family. It is very hard, as Senator Geller and Senator Webster said yesterday. They have their wives at home who were really raising the children. A woman always has it harder that way and we discussed this. You are very fortunate with your husband, and I know, your mother. I know that it takes a toll to be away from your children. You have done this with such grace. I have such great respect for you because of that.

I have respect for you for another reason. My four years in this body have been made very special because of you; not only your friendship, but your leadership. Senator Saunders just mentioned Medicaid reform. As a freshman Senator coming over here from a very partisan House, I was amazed, actually, that I mattered; that my opinion mattered; that my ideas mattered and Medicaid reform was a perfect example of that. We went over amendments again and again and then again. It didn't matter if the amendment was sponsored by a Democrat or a Republican. If it was a good amendment, if it was a good idea, you accepted it. So that is very important to me. It has made my time very special here.

Last year when we realized that the budget was closed out without funding our aging resource centers, you went right to bat after I came to see you. I know that you have been accessible and available to me and, I imagine, to everybody on this floor. I know I have bothered you on weekends and evenings on your cell phone, but you have always been willing to talk about things and to try to work things out. It is a very special quality that you have. I can tell you that I'm going to miss you so terribly in this body. I think everybody else will miss you too. I just wish you the very best in whatever it is you do. I, for one, will be there to support you. Thank you.

**Senator Haridopolos:** Lisa, I never liked someone so much who, every single time, told me "No." I'm not a big appropriations guy, as most people know. I like tax cuts, and for the last two years every time I came in, the answer was "No." But I knew I had made it in this body because now, she waits an hour to tell me "No."

On a more real note, I had the great opportunity as did the President, to travel with Lisa. We spent a lot of time on the plane together talking about our families, as I'm a father learning how to do his job. She talked about the challenges she faces, reminding me of my wife.

She spent time with some of us in the Class of 2000. We're losing a real superstar today. I know Senator Webster and Senator Geller and others are leaving. Those of us in the Class of 2000 hope to have the opportunity to serve in this body longer. We really learned a lot from Lisa; and not by getting a haircut or the idea of telling me not to carry a backpack anymore. But the idea that the tradition of the Senate is important in the future, and that we need to take our blinders off. Senator King and I talked about it last summer. We need to make sure we understand this is really the Rock, and that the Senate is strong and really the future. This means a lot.

We're really going to miss you. In the future we are going to need that statement, as this state faces some uncertain times. Lisa, thanks for saying that, and thanks for teaching this young person a lot about the process, because we need your help in the future. Thank you, Lisa.

**Senator Lawson:** Sometimes, I feel like crying when I think about Senator Carlton leaving the Senate. We first met when I was in the doghouse with the Democrats. My punishment was for a new member to be put in the same office unit with me. When she came in, with me being very tall, and her looking much younger and bouncing around, I thought, "Here comes another cheerleader." We became real good friends. I learned right away about her intellect and her leadership ability. My punishment led me to many, many years of knowing a person who I have a lot of respect for. It was during that time that she gave me the name "Too Tall."

I followed her and came to the Senate. She is still a person I will always go to and a person who always works. She has kicked me out of the appropriations suite on many occasions while I was trying to get something done at the last minute. I would always be around here on the weekends because I knew Lisa would be here. I would go in and peek through the door to see if she was having lunch, so she would be there for at least five minutes and I could ask her for another project.

I adopted her as a little sister. She will always be like a little sister to me. She is a wonderful, wonderful person, and a lady with a tremendous intellect. I said long ago, when I was in the House, that I didn't know of any other female that I admired as much as Gwen Margolis. I followed her, though she didn't know it. But then along came Lisa to fit in that same category, in my opinion, of legendary status. She has helped so many people throughout the State of Florida. I'm thankful, that, way back, she allowed me to be her friend. She is like a part of my family. She will truly be missed. You are just a wonderful person, Lisa. Thank you and Godspeed.

**Senator Carlton:** Saying "So long" is never easy but with a few steps down memory lane, I would like to reminisce about some good times, lessons learned and to say thank you to those whom I met along the way.

While other things may change us, we start and end with family. I started this journey with a husband and I end it with the same husband and three children. I have the ideal husband. Our three precious children have an awesome dad. Rob has supported me in every endeavor I have undertaken. He has sacrificed so that I can be here. Senator King always says that my husband has been given automatic sainthood status because he is married to me. Thanks, Senator King.

My family extends beyond those who are related to me. For I have three ladies in my life—Linda Mineer, my Chief Legislative Aide, has been with me for 14 years. Linda Spivey has been with me for 8 years. Rita Faulkner, holding down the fort at home, has been with us for 10 years. They are the best examples of public servants dedicated to the constituents of Senate District 23. They truly are a part of my family.

I have more extended family. Sixteen years ago when I went to work in the House Republican (minority) office, I got to know a group of people that I came to respect. They were my family. Even now my family has continued to grow with the staff of this Senate. Though I will not be able to name you all, you have a very special place in my heart. You are my family. In fact the truth of the matter is I would rather be back in the staff war room talking with them than debating on the floor.

Now that you have met my family, I want to say a few words about some other special people in my life. It is the 39 people who sit on this floor. To me, this Senate is a treasure chest. The outside looks pretty plain, but when you open it up and look on the inside it is filled with very precious jewels. Let me describe them to you.

There is Senator Al Lawson. Every time I think of my first session, I will think of you, you were my best suite mate. There is Senator Garcia. Every time I hear the word "Hialeah" I am going to think of you. I am grateful that I finally had a chance to visit you in your beloved hometown. Senator Gwen Margolis, you had no idea that a 28-year old girl was watching you on a television from her desk in the House Republican (minority) office with stars in her eyes. It is because of women like you and Senator Evelyn Lynn that women of my generation have greater opportunities to serve.

There is a book called "Daddies Are For Catching Butterflies." When I remember the book, I think of Senator Villalobos and all his stories over the years about his daughter, Katie. When I begin to feel comfortable with the status quo, I think of Senator Rich, who challenges me to step outside my comfort zone. Senator Constantine sat close by on the House floor during two of my pregnancies. He got me water, and punched my button when I could no longer reach it. Near the end of one particularly long day (during a special session) he leaned over and said "Carlton, you don't look so good. Whatever you do, don't go into labor." Lee was my first Council chair, and he taught me how to be a good chairman. For that I am thankful. When I think of hats, I will remember Senator Wilson. Senator Siplin, you remind me daily that if you have just a little faith, you can move mountains. Whenever I walk up a flight of stairs I am going to think of Senator B. Saunders. When I go to the beach, I will always think of Senator Jones and how he let a rookie member be a part of his plan for beach renourishment in this state.

Senators Alexander, Wise, Peaden, Crist, and Fasano, every time I think of or read about Florida's budget, I will fondly recall the six of us working as a team over the last several years tackling the fiscal challenges of this state.

When I think of the title "Mr. Speaker," I will always think of my speaker, Senator Webster. I remember gathering the nerve to call Speaker Webster several weeks after the elections, when I found out Republicans would be in charge of the House of Representatives, to lobby for a Chairmanship. As I recall the conversation went something like this: "Well Speaker, I am not sure what position I would like but everybody is telling me I am supposed to ask for something important." What he said back to me essentially was: A title may make you important but it is through your actions that you make a difference.

A few days later I found this at the grocery store. It's a magnet. It says "Bloom where you're planted." It has been on my refrigerator for 14 years. Every time I look at it, I think of Speaker Webster.

Speaker Webster did give me a position. He made me the Chairman of Ethics and Elections. He also appointed a Vice Chair, Senator Diaz de la Portilla. Now that was a problem for me. Representative DLP was a member of my class and I had gotten to know him over the previous two years. Quite frankly, we did not get along well. I suggested to him many times, in my motherly way, that he should not stay out late, that he needed to be in session on time and so on and so on. He normally walked away mumbling something under his breath in Spanish.

The Ethics and Elections Committee suite also had two member offices, one slightly larger than the other. We had agreed on a plan to meet one morning to walk through the office and decide who was going to get which office. However, in the dark cover of night Representative Diaz de la Portilla moved his furniture to the larger office. Imagine my shock when I arrived at the office the next day. I was dismayed at being stuck in the "smaller" office. What the Representative didn't know was that I am a farm girl. So I arrive quite early to the Capitol. By the time he got there, our furniture was switched, and I had taken my rightful place in the bigger office. He only spoke to me in Spanish for the next two years, but things have changed. I've been watching the Senator from the Thirty-sixth. Now I view him in a different way. I view him with admiration. I have sought his advice on numerous occasions. I admire his articulate style of debate.

The jewels in this Senate treasure chest also contain the fearlessness of Senator Posey, the compassion of Senator Dawson, the advocacy of Senator Dockery, the joyful nature of Senator Baker, the passion of Senator Haridopolos, the wit of Senator Aronberg, the class of Senator Hill, and the intelligence of Senator Geller. Our crowning jewel is the incredible Senator Bullard.

Then there is my seat mate Senator King. He is a word artist. The Pablo Picasso of speechmaking. When he stands and speaks, one thing for sure is he will have turned simple words into a masterpiece.

The newest addition to the treasure chest, our freshman class has three lawyers, Senator Deutch, Senator Joyner, and Senator Storms; two sheriffs, Senator Oelrich and Senator Dean; and Senator Justice, who like me, began as a legislative aide. There is also a former superintendent, Senator Gaetz, and a businessman who played a part in the start up of some little Internet company, Senator Ring. So when I think of the future, I think of these Senators. I know you all will be in good

hands under the leadership of one who is clothed with humility, gentleness and patience. Senator Atwater, you are the perfect man for the job.

My favorite place to be is my home, and when I think of home, I think of Senator Bennett and Dee. We have traveled back and forth from Sarasota to Tallahassee more times than I can count. Thank you, Senator, for always making sure that I had a ride home.

Senator Pruitt, some call you President, I refer to you as the Co-President. By the way, if this is a Co-Presidency is there going to be a co-portrait? Although it has been an honor to be your Pro Tempore, there was even a greater honor.

You did not ask me to be your pro tem to serve you, instead you said, "Don't walk in front of me, I may not follow; don't walk behind me, I may not lead, walk beside me and be my friend."

President Pruitt, it has been a great honor to be your Co-President, but the greatest honor is being your friend.

The last 14 years have been a journey. When you come to the end of a long journey, lots of people ask where you are going next. Although none of us knows what the future holds, I do believe the Proverb that says "In his heart a man plans his course, but the Lord determines his steps." When I take those next steps, wherever they may lead, one thing for sure, is I will take with me the wonderful treasures of your friendships.

**SENATOR WEBSTER PRESIDING**

## RECOGNITION OF THE PRESIDENT

**UNVEILING OF PORTRAIT**

At the request of the President, Secretary Blanton read the following:

Artist: Phi Van Mai is with Leon Loard Portraits. Originally from South Vietnam, Phi Mai's career in art is a result of much hard work and overcoming many personal trials. Upon graduating from the Architecture University in Siagon, he went on to complete a Master's Degree in Architecture. Phi worked as a designer, using his artistic abilities combined with his skill of architecture to build several impressive complexes. However, as successful as he was, Phi felt called to move to America to escape oppression and to provide his family with a better life. Escaping communism, imprisonment, refugee camps, and physical cruelty, Phi persevered—arriving in the United States of America in 1989.

Phi has worked as an oil portraitist for Leon Loard Portraits for 15 years.

His talents are already displayed on the wall of the chamber. He painted the portraits of Senate Presidents Toni Jennings, Jim King and Tom Lee.

**Senator Carlton:** Senators, it is my honor to say a few words about the First Lady of the Florida Senate, Mrs. Aileen Pruitt.

Senators, have you ever noticed that some of the happiest people are the ones that give a lot? For the last many years, Mrs. Pruitt has held down the Pruitt fort while Representative, then Senator, now President Pruitt has been in office. This was a fort full of children. As I was thinking of what I would say today about this special woman, a book came to mind. Over the years, it was a favorite for bedtime stories in our home. It is called "The Giving Tree." It is a story about the relationship between a tree and a boy. Through the years the tree provided apples to nourish the boy, branches for the boy to swing on, and shade when the boy was tired. The selfless tree loved that boy.

This reminds me of how it probably was in the Pruitt home, all these many years. It was her love that made it possible for President Pruitt to serve in the Legislature all these years. She has given her all for her family. She attended concerts, plays, track meets, and family celebrations, all without President Pruitt. She has mended wounded knees, refereed sibling rivalries, packed lunches, and served as a chauffeur. I might add she did it all while maintaining her position as a bank executive.

Mrs. Pruitt, thank you for being our "Giving Tree," and for letting us borrow President Pruitt for a time.

Now, in the end of this book the boy grows up to be a man and returns to the tree. We promise, Mrs. Pruitt, we will give Ken back to you in two years. We know that although you have given up a lot for President Pruitt to serve in this chamber, that when you finally do get him back, like the tree, you will be happy.

**Senator King:** This flag pole is presented to Senate President Ken Pruitt by all of the Senators serving during 110th Regular Session of the Florida Legislature since Statehood.

It is inscribed with these words: "Chosen for you in recognition of your love for this country, your love for this State, and your deep respect for the office that you occupied for these 2 years."

We give you this lasting token of our friendship—something that will withstand the test of time, any storms that may come (we are told it will withstand a Category 4 Hurricane), and that will hold the beautiful colors of the United States of America and the State of Florida. With the flagpole from us, come two additional gifts.

First, a Florida flag. I don't have it with me today because it will fly over the State Capitol tomorrow, in honor of the last day of Regular Session during your Senate Presidency. It is given to you, with gratitude, by your dedicated district staff. They have been planning this, and keeping it a secret from you (which is really hard) for the past two years. They didn't know that we would choose the flagpole as a gift for you—but, just like your entire Senate Presidency—it was a plan that all came together perfectly. But wait, there is more.

There is an American Flag. Two years ago, unbeknownst to the Senators, or your district staff, the Senate Professional Staff made arrangements to secure the American Flag that flew over the Capitol on November 16, 2006—the first day of Organization Session—YOUR first day as Senate President.

Again, perfect coordination, perfect timing, and a fitting expression of gratefulness, loyalty, and love for a Senate President who has been a true friend to all of us. Thank you, Mr. President. I would now like to read the proclamation to you, Mr. President.

Senator King read the following proclamation:

This is the official flag of the United States of America.

It was proudly flown over the Florida State Capitol on November 21, 2006, the first day that Senator Ken Pruitt presided over the Florida Senate.

The flag is presented in recognition of Senate President Pruitt's honorable service, fervent patriotism, and commitment to a better future for all Floridians.

Let it be known that the flag was given to Senate President Ken Pruitt by the grateful and loyal Professional Staff of the Florida Senate who hold Senator Pruitt in highest esteem and who were honored to serve under his leadership.

**Governor Crist:** I am honored to be here. As the Senate President knows, I was never the Senate President. I am humbled by the opportunity to stand at this rostrum and honor you, my friend. This is a wonderful day for you and for your family. Aileen, it's a pleasure to see you. I always tell the President how beautiful his wife's eyes are, because they are. There's just a sparkle that is reflected in your husband. I know how much he cherishes and loves you. Please give this wonderful First Lady of the Florida Senate a round of applause.

The Senate President is a really neat guy. We have a wonderful relationship. I'm blessed for that, Senator Webster. I am truly blessed for that. I can't tell you, Mr. President, how you have lifted me along the way as a first-term Governor. We've had a lot of conversations, Senator King, on the phone, for the record. As the former Attorney General, I've got to be careful about all that stuff. It's been a real special relationship and it will continue to be that.

Many times, we'll talk and talk about different issues and he will say, "You're in your ascension and I'm descending." I say, "No, you are not. You are ascending." It's important that what Senator King said is true. While you may not be Senate President after November, your public service is clearly not done for many other things in life, as long as you want to, because the people understand and see your heart.

Just like these Senators who love you as much as they do, so do the people of Florida, Mr. President. You have fought for them. You have been true to them. You care about them. In our talks on the phone just about every weekend, I get a chance to see it up close, just as these wonderful members of the Florida Senate have. It is a special thing to have a public servant of your level of integrity, heart, caring and compassion.

I could go on and on but the bottom line is that you are a good man. You are a good, decent man. You care deeply about people. You and your family have been through a lot. It's enough to be Senate President, Senator Atwater, as you will find. But our friend, Ken, and his beautiful bride have been through a lot. Through all of that, he has persevered. Just to watch how he has comported himself and handled himself in the face of difficult challenges. I don't mean the budget. I mean real challenges, the real stuff. I am in awe. I am absolutely in awe. I know that you are guided by our God. That's where it comes from. It is divine intervention, Senator King. He has determined that this man is a great leader because he is one of you. So thank you for giving me the chance to say a few words. I am honored and surprised by it but I'm privileged to have the opportunity to honor my dear friend. God bless you, Ken Pruitt.

**Senator Gaetz:** Leadership is a term that is used, abused and overused. There are more books written about leadership than there are real leaders. Some people believe that leadership is the accumulation of and the relentless abuse of power. There have been people like that who have resided in legislative chambers. Senator Pruitt is such a different kind of leader because he taught us, even some of us who came here with many experiences in life, that real power comes in sharing responsibility for results. He has shown us that it creates teammates; it creates partners; and Mr. President, it creates trust. And you, sir, are trusted. You are loved and you are a real leader.

I, from time to time, like to quote Winston Churchill when he said, "It is a terrible waste to be a great man in small times. But to be the one called to stand in the breach when all that you have known and cared for hangs in the balance, now that, is a gift from God." You have been that person for us, called in a troubled time to stand in the breach. The way you have done that has been so remarkable.

So many of these people here today have served with you for so long. Seven of us have only served with you for two years. But the way you have treated the freshman class, all of us—Democrats and Republicans—coming from different places and walks of life, you didn't treat us as though we were people that would be put in some dark corner. You have given us all responsibilities. You have made us rise, each in our own way, to the tasks that you have given us. That is why you are such a powerful, trusted, great leader. I am proud to have you be the face of the Senate in which I serve, because you are the strength, a real strength, an inner strength for the Senate. You, sir, are the heart and the soul of the place. Your warmth, your character, your willingness to listen, and your great compassion with which you lead. Who in this chamber has not received a note from that man at a time when you did something you thought was good; or at a time when you most needed to be lifted up? It is your heart; it is your warmth; it is your soul; it is your strength, Mr. President.

**Senator Lawson**: I'm not here today to speak about President Pruitt's leadership ability. All of us recognize his leadership ability over the years. I'm here to honor him as a true friend. About 14 years ago, and all of us go through very difficult situations in this process, I was probably at a very low moment. I didn't know where to turn and didn't even think that I would run for reelection. I had this Republican friend of mine that gave me encouragement. He did a whole lot of things for me to give me the strength to carry on. That's what I call a true friend.

In this process over these last 26 years, there have been two individuals who have been very, very close to me and my family. One was the late Doug Jamerson, a great individual. The other person is Ken Pruitt. I don't know of any person who has been so gracious with all the late night conversations over the years to encourage me other than Ken Pruitt. Ken and his family have been through some difficult times. Through his faith and the love of many of you, he has been able to rise up. In the process of him being a leader, I've always compared him to Rocky Marciano. He said, "Winning takes a complete commitment of mind and body. Once you don't make that commitment, they don't call you Champ any more." Ken has been a person who makes that kind of commitment. I don't know of any hour of the night or any time of day that he couldn't call on me and I wouldn't respond.

When it comes down to families and pulling families together, and the hurt that you go through and the pain that you receive because you're not there, it means more than words for a person who is willing to stand with you. We've been around a long time and things don't always go the way you want them to go. I can tell you about a committed person. We grew up the same way, poor. Working early in life and working hard to rise up to where we are today. Thank God he always taught me that it's too bad that too many people who are looking to be successful, think of work as being a dirty word. There is only one way to make it, that's spelled "W O R K." If you know Ken Pruitt and you know where Ken Pruitt started from in life, all of you would celebrate that day. Truly, he deserves that American dream and he deserves to have his portrait up here because he didn't start with a silver spoon in his mouth. It was the same way a lot of us started. For the kids out there, they need to know, that if you have a dream and you're willing to work for it, the sky is the limit. It's true for all of us. I just want to thank Ken Pruitt and his family for their friendship. I look forward to the next two years with you. Thanks very much, Ken.

**Senator Jones**: I'm going to try not to repeat what's already been said; but when I think of Ken Pruitt, I can remember back in the House when it was real simple to have a friend be a friend. What a friend you have been of mine, President Pruitt. There are only a few of us who have experienced the loss of a child in this process while we serve. You still have to go on. So I like to leave my remarks basically of the courage it takes and what you've done to change this institution. I can't tell you, Mr. President, how many employees have come up to me and told me, "You wouldn't believe what happened. President Pruitt walked into my office and I thought I was going to get fired. He said, Happy Birthday." It didn't matter whether it was a janitor or a staff person. I was having ice cream and he walked into the entire Regulated Industries Committee and I thought,"Oh boy, this isn't going to be good." He said, "Happy Birthday." He sat with us a little while. He does it on and on and on.

You have changed the attitude of this institution and of the employees who work with all of us. You have no idea what an impact that has made. I've served here since 1978, Senator Webster, and when you had all those people up here, you were presiding and you couldn't see all those smiles and happy faces. You have definitely changed this institution. You have changed this state. I never could have done the beaches without your help. The bill should have your name on it, rather than mine.

When you brought that little bus to Pinellas County, I didn't know who taught you how to drive, but when you came around that parking lot, it was the craziest thing. But it worked, and because of your efforts, we now have community colleges offering four-year degrees. I can't tell you how successful that is. My county thanks you every single day for students being able to get their degree without having to leave the county.

So my friend, all I can say to you and your wife and family, I hope the future shines its brightest light on you because you all deserve it. Thank you for being with us and being my friend.

**Senator Siplin:** I would be remiss if I didn't get up and say a few kind words about my good friend, Ken Pruitt and his very lovely wife, Aileen Pruitt. When I first came to the Florida House, I was excited about being over there because having grown up in the projects and not knowing anything about the Florida House, I was now a part of the process. Then I saw the Florida Senate. Seeing how the Republicans and Democrats got along, my view of the Senate was that they cared about the general welfare of the State of Florida.

When I got a chance to run for the Senate in 2000, I was very happy that I was able to do that. The Lord blessed me with this seat to represent my hometown. All of you know that Ken is your friend; but I can certainly attest that he is my friend and Victoria's friend. As you all know, we had an experience with the justice system. Ken demonstrated that this body is about the institution, and not just a person. It stands for justice and righteousness for the Senate as a whole, notwithstanding any kink in the process. I think what happened to me and the way you conducted yourself in this institution is commendable and to be reflected not only across this state but across the country and the world. When the press was asking you to request that I vacate, you stood firm. Even the public was asking you to request that I vacate. You stood firm, because you knew Gary Siplin. You knew that I was a good, honest person and

that which I was accused of was not true. You allowed the criminal justice system to work and it did work. Theoretically, an appellate court granted an acquittal. People think that I was exonerated and vindicated when it did that. But in fact, the President of the Senate, because of his faith in the American criminal justice system, Ken Pruitt, you were exonerated and vindicated to stand beside Gary Siplin and Victoria Siplin. So we will be forever grateful to you.

Members, there have been a lot of good things said about Ken Pruitt. If you recall, about two years ago, we were up here for a special session on a Monday night. I was sitting over there where the President was sitting. My wife, Victoria, was sitting next to me. The Governor sat beside me. My picture was displayed, sitting next to the Governor, back in Orlando. We went back home on Thanksgiving eve. I was on television in my district and, of course, I was under certain circumstances at that time. On Thanksgiving eve, they came and detained me. The President heard about it. This reflects the kind of heart he has. He called my wife. My two little boys were with my sister-in-law in Boynton Beach. Of course, my wife was with me when they detained me. She was left alone. So this man, our President, my friend, called my wife and said "Victoria, relax. Everything is going to be OK. God is on his side. Now I know you are upset and you all were planning to come down that Wednesday night, Thanksgiving eve, and spend the Thanksgiving holidays with your family in Boynton Beach. Victoria, relax. I will get into my car and go pick up your two little boys and bring them to you." He left his beautiful children over there and his lovely wife to go get my two little boys and take them back to my wife in Orlando. He was away from his family on Thanksgiving eve.

That's what kind of man God has put in our lives. We talk about divine intervention. I can attest to you that he is in his office by the grace of God to do the things that he has done over the duration as President; to recognize people who have never been recognized; to stand firm for a little black boy from the projects who was attacked. A Republican, he could have very easily gotten an extra seat. That's not his aim. He stands for what's right. He stands for justice. I want you to know, Ken Pruitt, just like David and Jonathan, you've got some children over there. And you are my Jonathan. As long as there is a Siplin, your children will always be all right. I love you, brother. God bless you, your family, your children and your children's children.

**Senator Geller:** I have known Ken Pruitt since he was elected. I was in the Class of 1988 and he was the Class of 1990. We really began working closely together about two years ago. I was worried. Everyone was warning me about what life would be like under the Ken Pruitt presidency. I was told, "This guy is terrible; this guy is a right-wing ideologue. He's going to crush the Democrats under his heels. It doesn't matter what he says he's going to do, once he's in the presidency, you guys are finished." I have heard a lot of mistaken statements in my life, but those remarks are among the most mistaken statements I have ever heard. Although President Pruitt has a strong core set of beliefs, and has stayed very true to that set of beliefs, he has also recognized that there are other beliefs in this chamber.

I have never seen a president go as far to accommodate every member as President Pruitt has. He has granted unprecedented access to the Minority Party. He has authorized us to appoint the vice chairs of the committees. I'm not aware of that having been done before. He let me appoint the Democratic members to the committees, which, again, I have never heard of happening before. The famed, "Council of Cardinals," the "Group of Three," the Special Order Group, to give the Minority party access, is another creation of the Senate President. It is a true, open door policy. When I say open door policy, I mean I have never seen the doors to your office closed. It really is an open door policy.

Normally, when you get a message, "The President wants to see you," it's like being told the principal wants to see you. You wonder what you have done this time and head upstairs for your appropriate statements or punishments. Senator King, you recall, you sent for me frequently. When you go up to see the President, in prior presidencies, you rarely could get in to see him or her. There were always dozens of lobbyists around or the doors were closed and he was always in meetings. You would try and schedule the appointment, "We can see you late tomorrow or late this afternoon but we can only give you five minutes." Now you go in; you ask to see the President; you walk in; he says, "What can I do to help you?" Not just for the Democrats or the Republicans, but for every member of the Senate, there has been unlimited access to the Senate President.

Mr. President, on behalf of the Senate Democrats, I want to thank you for that. That policy has sometimes led to some issues. I have had a lot of people complain to me. Mr. President, I know they have complained to you. We have had this discussion. I have had Democrats, both in the Legislature and at home, complaining, "Why haven't you been more confrontational?" Mr. President, I know that your Republicans have been complaining to you, "Why aren't you doing more to grind down those Democrats?" I have had to ask my people, "What exactly do you want me to be confrontational about when they are treating us this fairly? If they weren't treating us fairly, we would go to war." You have never done everything we asked. When there are more Republican votes on one side than Democrat votes, you guys win. You have always done it fairly. I've never had a reason to go in complaining because of the way you have treated us.

Mr. President, you used a word once to describe to the press what our relationship was. It was "frienemy." You were commenting that, even though we were leaders of different parties, we were really frienemies. It really hasn't worked out that way. It's just been plain, simple friends. I've never seen where the frienemy part comes in. It's just been friendship, the way you have treated me and the way you have treated my caucus.

I think everybody knows Ken Pruitt is a man of humble beginnings who ascended to the highest pinnacle of power in the State of Florida. He's done this just through sheer hard work, determination, and force of will. Mr. President, I think you mentioned to Senator Carlton that rock in your office that says, "There is no limit to what a man can accomplish as long as he doesn't care who takes the credit." If there is anybody that should apply to, it's you. That belongs in your office because what has impressed us all the most is how humble you are today.

How many times have I raised my hand at one of the pre-session meetings when you said, "I would like to thank Leader Geller and Leader Webster for doing this and for doing that?" Senator Webster and I say thank you and we do our best. But it's not what we have been able to accomplish. We are carrying out the direction that you have set. So if Leader Webster and I have been able to work things out, it has been because of the example and direction that you have set. You repeatedly fail to take enough credit for all the things that you do. Since you won't take the credit for that yourself, we are here today to give that to you.

One thing you and I have worked on together for decades is the Bright Futures issue. Somebody made reference to the school bus. I have done my best to keep that program but I am in the minority party. I don't know how many school children in the State of Florida today realize what a great debt they owe to you, specifically, and your dogged determination to keep people from eliminating the Bright Futures scholarships or dramatically cutting back the Bright Futures scholarships. You have had my help in the past. I'm gone, you're the last one left. I hope the school children realize the job you have done for them.

Mr. President, you have heard me say that I am a little nervous as to what the future will hold for the Florida Senate. We have had this discussion, as well. The last two years our budget has been terrible. In normal circumstances that would lead to chaos but the firm hand that you have shown, along with Co-President Carlton, has led to what I consider to be the Golden Age in the Florida Senate. This is something that future decades of Senators or future Senates will look back on and comment, "Well, gee, why can't we get along like they did under the Pruitt presidency?" You have set what I believe would be a model that Congress and other states in America should follow. You have done a tremendous job, Mr. President. All of us owe you a great debt, particularly the Senate Democrats, for your even-handed fashion. We appreciate everything you have done. God bless you, sir.

[Video]

**Senator Webster**: Mr. President, it has been an awesome two years. I am glad to be a part of it. You have been a servant leader and you've done it well. There have been high times and some pretty dark days, yet through all of that you have been such an unbelievable encouragement, not only to me but to your family and to this body. Thank you for doing what you do. Thank you for serving. Thank you for being our President. We love you and we love your family. May God bless you.

**President Pruitt:** Let me begin by thanking the artist. There's a lot of air brushing there, I know that. I know a little bit about artists. It's

not something you learn. You learn some of the techniques in the classroom. My daughter, Ashley, is an artist. It truly is a God given talent. I am very thankful to Phi Van Mai for his work.

I wish you would indulge me for just a moment. I want to say a few words about the President whose portrait is leaving this chamber. I thought it would be appropriate to comment about President Hudson, with the help of research by John Phelps, Historian and Curator and former Clerk of the House. Frederick Hudson was the 39th President of the Florida Senate. I happen to be the 78th President. He was born February 2, 1871, in Pine Bluff, Arkansas. He graduated from Washington and Lee University in 1892 at the age of 21. At 26, he married his bride, Nora Bell Andrews. They had three children. For health reasons, President Hudson moved in 1900 from Arkansas. Charlie, he moved to Indian River County to plant pineapples. In his freshman year, he passed a very important law for St. Lucie County. St. Lucie County, prior to that, had been incorporated and gobbled up by Brevard County but seven years later, he sponsored the bill to create St. Lucie County. In 1905, Senator Hudson moved to Dade County, where I was born and raised, to practice law. He was elected President in 1909. He was the first Dade County person to hold that position. Senator Atwater, he went on to introduce bills that created Palm Beach County and Broward County. He also passed legislation that established Florida's first child-labor law and juvenile court program. After serving in the Legislature, President Hudson returned to Miami where he worked as an attorney. He practiced law in Miami, Senator Villalobos, for 67 years. He handled many important cases that actually helped direct the development of Miami. He also wrote a book entitled "Beginnings in Dade County." In 1965, he told a *Miami News* reporter that he found it irritating when he was asked whether he went to the office every day. He said, "I snarled at them and replied 'yes' and it might surprise you to know that I work when I get there." President Hudson had pretty much the same relationship with the media that I have. He took down his shingle at the age of 102 years old. He is believed to have been the oldest practicing attorney in history. Former President Frederick Hudson died August 5, 1974, in Miami at the age of 103 years old. Since he lived to be over 100, it appears that he made the right decision by coming to Florida. I've asked John Phelps to be here because he is taking President Hudson back to the place where he served as President of the Florida Senate—to the old Capitol. I know we're leaving him in good hands. Thank you John.

You know as President, you can pretty much do whatever you want to with your portrait. So, I had several renditions that I wanted. The first one I had was that I wanted all 40 Senators to be in the portrait. So I went home and, of course, I told that idea to Mama. That didn't last too long. She pretty much squelched that one. The second one, I was going to stand right here and the portrait would be of all our 40 names in the back of the portrait. It would take up a lot of room back there. The other three mamas in my life, Carlton, Mears and Miller, put the squash on that one. So the third one I had was that I would be holding a piece of cardboard in front of my portrait. What would it say? No, it wouldn't say "Will work for food." It was going to say "Protect Bright Futures" so all those who came after us would be able to do that. This is what we ended up with. You look at Dempsey Barron with the horse. Phil Lewis has a photograph up there. Curtis Peterson, with the roses, was a florist.

This has been a whirlwind two years for us. I have never laughed and I have never cried so much in my life. When we lost Kenneth, it was like our darkest hour. But it was soon replaced with the brightest hour because of our friends and because of the love and support that we got from each and every one of you. I want to thank you for being there for us and for lifting us up at a time when we needed it the most.

There is a little story with this. When we got the call about his passing, we were in Boston. It was 5:00 o'clock in the morning. For those of us who are parents, if you get a call at 5:00 o'clock in the morning, you know it's not good. So, of course, I needed to get back here as fast as I could. Getting to Tallahassee is so hard. So, I just got on a plane to come to Orlando. Once I got to Orlando, I had no idea how I was going to get to Tallahassee. So I flew. I was stunned, I was shocked, I was emotional on the plane. When the plane landed and I came out of the tunnel and into the gate, who's standing there but Dan Webster. After we hugged and he gave me some beautiful comforting words, I looked at him because you know, to get to a gate with a boarding pass is hard enough but to get to a gate without one? I asked him "How did you get here?" He said, "I don't know." I asked him again "How did you get here?" He said, "I don't know."

Senator Geller, it reminded me of the conversation we had when I came to your office and we were concerned because we thought you had kidney cancer and you were going for the biopsy. I told you that my thoughts and prayers were with you. You were nice but you said to me "Thanks, but no thanks. I've gotten direct access and I'm going to Dan Webster." Senator Bullard, if you remember when you had your lung cancer biopsy done, who did you go to? You went to Dan Webster. There's something about that Senator Webster. Thank you for being there when I got off that tunnel.

When we decided on the goal, there was no project here, there was nothing I had to have, nothing I wanted named. All I wanted to do was to get rid of this power pyramid that was in this Florida Senate, that seems to be all over government. I wanted a strong Senate but not a powerful Senate. There's a huge difference between strength and power. I wanted a strong Senate and so who did I turn to? After I watched him work and be the architect of removing the power pyramid in the Florida House, I turned to Dan Webster. Together, along with the Co-Prez, along with Steve Geller, we put a matrix or a framework together. Our motto was, as Senator King said yesterday, "Process over Personalities." We wanted to make sure that the process worked first. We needed all 40 Senators working together. You see there are 18 million people in the State of Florida and it requires the talent and the expertise of every single one of us to make sure that we do what's right for the people of this great State.

I've never seen anybody with a love of the institution or the process more than you, Steve Geller, because you get it. You understand the importance of maintaining the institution and the sacredness of that. It takes the talent and the expertise of every single one of us to make sure that we do what's right for the people of this great State.

But of course, after we put it together, we knew it couldn't work without a strong Rules Chair to implement it all. President King, I know there were times when you thought that I had forsaken you. There were times when you wondered "What in the world have I done?" But there was no better statesperson, no better person to implement this than you, sir. I want to thank you for being truly, not only my friend who stands by my side all the time, but an incredible Rules Chair as well. We've seen the results of that here this past week. Now, has all this worked? I'm a little too close to it. I think the ones outside the halls here will be able to judge it better. I think the people of the State of Florida will be able to judge our work here a lot better than that.

I do know it also takes an incredible professional staff to make this work as well. Majority Leader Webster, if you don't mind, I'm just going to take a couple of minutes to recognize my staff. It was mentioned the other day that they are the most professional staff in the country. It is absolutely true.

The first person I will recognize is David Coburn. David Coburn is the most incredible friend and professional all-in-one that I've ever had. We are a Triple A bond-rated state. Our pension plan is one of the strongest in the country, if not the strongest. We have $2 billion in reserves. I can remember when the Co-Prez and I decided to tap into the Lawton Chiles Endowment Fund just a little bit. You talk about swallowing hard, David Coburn, that was hard for him. So the stability that we have in this state, we could be like California with its junk bonds, we could be like Michigan. Florida is on sound footing because, for 30 years, this man has been helping to guide the ship. You know something? His photo is not in the directory. You know why? Because he knows and he understands that it's not about him. So he stays below the radar. He's like the wizard, pulling the levers back and forth. There are times when I know the lobby corps says "It's that staff, it's that staff." You know what? David Coburn lays all the information out on the table and he lets us, as the policymakers, make the decisions. It's not staff. David Coburn, our children and our families and our seniors in this state are better because of you. I cannot thank you enough. I don't know where you are going, but I'm telling you, whoever is out there listening to this, they better grab him up quick. He is the best. Thank you, David.

David put together the "Dream Team" and that's what it's called. We have what's called affectionately the "24-hour rule." Anytime we make a major decision, what do we do, Senator Webster, Senator Carlton and Senator Geller? We wait 24 hours, because in the heat of the moment, you make decisions and you make them off the hip and they are usually not good decisions. It's becoming the 24-minute rule right now. We start at 6:30 in the morning. That's our bonding time. We play a little music, every one comes in, we have our coffee, and we get the day started.

Then there's Kathy Mears. Good ol' Kathy Mears. I'm telling you, my confidante, she has more wisdom than years that I will ever know. Those of you who know me, know I don't do press conferences, I don't do press avails. To be able to represent the Senate, make certain statements to represent the Florida Senate. It's not just about you. Kathy, I apologize to you for the hardship that I have placed on you for the past two years but I'm telling you, thank you for continuing to encourage and enlighten all of us here in the Florida Senate. We love you.

Then there's Susan Miller. I affectionately refer to her as "Radar" because the minute I turn the corner and I say "Susan, can you...," the phone call has already been made or it's already on my desk. I am the 13th president that Susan Miller has served. Of course, she started when she was six years old. She has done an outstanding job and everything that is organized here, it's Susan Miller who does it. Thank you very much for the honor and privilege of serving with you here. I'm going to miss you a lot.

Of course, the rest of the dream team includes Richard Herring, Jane Hayes, Lillie Bogan, John Newman, Cynthia Kelly, Phil Twogood, Mike Peters, Debbie Brown and Elizabeth Fleming. This is the rest of the dream team from the President's office. Thank you all so much.

We all know our professional staff and there's no way that we could function without them. I've had mine forever, Carrie, Ann, Andy and Ginger. When you become the President of the Florida Senate, not only do you still have to take care of your own constituents, but you have to take on the constituents throughout the State of Florida. Thank you for stepping up and making me proud and making the State of Florida proud.

I wish the Governor was here because I wanted to express my thanks to him. This man has truly changed the paradigm in the State of Florida. You may disagree with him on one issue or two issues but when that man took office in November 2006, he knew that he had to be the catalyst to bring people together. All the ingredients for a perfect storm—he's gone from a $73 billion budget to a $66 billion budget and yet he has still led with honor and dignity. He continues to exude this incredible optimistic spirit. He is gracious, he is good and all I can ask you as I depart here is that when you forge a relationship with Charlie Crist, it is a relationship that you will have for a lifetime. He is a good, good man and he is a great friend. I'm truly going to miss him as well. He has the attitude that life is like a relay. Remember when we were kids and we had the relay race with the baton? Whenever the baton was handed off to you, you ran as hard as you could to make sure you got it to the next person so they could have a head start. That's his attitude in life. Our Governor is running as hard as he can to hand the baton off so that those who come after us have it better and easier. He really is a great man and I appreciate our Governor.

I'm going to talk about my family and I'm going to talk about my friend, Charlie Sembler. Uncle Charlie, as my kids refer to him. This is truly a gentle giant of a man. His father-in-law just passed away and look where Charlie is. He drove all night to be here and he is leaving immediately afterwards. This man has been near me every time a phone call was made, or every time something was happening with Aileen. Charlie Sembler was there with unwavering support and loyalty. Charlie, my kids have been begging me to take them fishing. I don't know how to fish. But I am looking forward to that moment when you and I are going to take that long overdue fishing trip.

Let me talk about the "the Pruitt Five." It will always be "the Pruitt Five" because Kenneth's spirit is embodied in every one of these kids. Look at the twinkle in their eyes. I want to start with Steven. The *Tallahassee Democrat* doesn't have a word about us on the front page. You know what it says? "Marines Welcomed Home from Iraq Tour." They get it. They understand what is really important in priorities. It's right here. Steven has decided to serve his country at a time when many would be turning their backs on it. Steven, you honor your country with your service and I love you, son. Ashley is the artistic genius of the family. She is starting Florida Atlantic University in the fall. Ashley, all I can ask you to do is to keep putting those God given talents to good use as you have already done. I love you, sweetie.

Michelle is on track to get her associate's degree even before she gets her high school diploma. Dr. Jones, she wants to be a chiropractor. She wants to be a doctor. She is a cross-country champion; she continually runs all the time, like Forest Gump. She is always fighting and working to reach her potential. I'll tell you Michelle, Dr. Michelle Pruitt has a very nice ring to it, doesn't it? I love you.

Mark has been arrested twice for stalking Tim Tebow. He wants to be a sports broadcaster. He knows the stats of more players in sports than any you can imagine. He actually learned to read by reading the sports page. So Mark, continue to reach for your stars, son. I love you.

My bride, Aileen. Unwavering support, unconditional love. She's going to get mad at me but I'm going to do it anyway. Most of you know but Aileen has stage IV breast cancer and she has had chemotherapy twice, lost her hair twice and had more radiation. Don Gaetz's wife has a blood clot in her leg that they just can't seem to get rid of and Don was telling me, it's like holding a hand grenade with the pin pulled out. That's what's happening. This lady, this wonderful person who is the love of my life, lives every single day to the fullest. She is a runner as well. But she gives breast cancer counsel. Anytime somebody has just been diagnosed with breast cancer in our community, they are calling Aileen. She is always out there at any type of cancer activities. She is there even though she is a full-time banker and also obviously holding the fort down at home. This month, we celebrate 26 years of marriage. Aileen, I'm looking forward to the next 26 even more so than these 26 years. I love you and thank you for being a great role model for our children and for the people of the great State of Florida. You are an incredible First Lady and wife. I love you.

So Senators, always remember that success in life when you are in this process is not judged by the number of bills we pass. I don't know if any of you sent out a campaign brochure that says "Vote for me, I'll pass more bills than anybody else." I never did. It's based on the relationships that we have when we leave here. That will be more important than anything else. Wayne Rubinas is having a birthday today. When I went by to give him his gift, I found this on Wayne's door as they were celebrating his birthday. This is perfect because I was trying to find an ending and this is it. "Life is not a journey to the grave with the intention of arriving safely in a pretty and well-preserved body, but rather to skid in broadside, thoroughly used up, totally worn out and proclaiming 'Wow, what a ride.'" Senators, wow, what a ride. Thank you. It's been an honor and a privilege Senators.

**Senator Hill:** Mr. President, I would like to present you with a token of appreciation. Members, I went to the President last year with an idea for an apology for slavery. Unknown to us, Senator Siplin had filed a bill. Senator Siplin yielded to us and said we would join together in the concept.

I did not realize that Senator Pruitt is a history buff. He told me the reason why the Capitol is facing Apalachee Parkway and some other stuff. He also said he had seen the movie "Amazing Grace." I had seen that movie. He said, "Go for it." So we put some stuff together.

Mr. President, I just wanted to present this to you so you could take this home, because this has been around the country. I received calls from a lot of people, but it was because of you giving us the green light that we were able to do it. We love you, brother.

## RECESS

The President declared the Senate in recess at 1:05 p.m. to reconvene at 2:00 p.m.

## AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—39:

| | | |
|---|---|---|
| Mr. President | Deutch | Justice |
| Alexander | Diaz de la Portilla | King |
| Aronberg | Dockery | Lawson |
| Atwater | Fasano | Lynn |
| Baker | Gaetz | Margolis |
| Bennett | Garcia | Oelrich |
| Bullard | Geller | Peaden |
| Carlton | Haridopolos | Posey |
| Constantine | Hill | Rich |
| Crist | Jones | Ring |
| Dean | Joyner | Saunders |

| | | |
|---|---|---|
| Siplin | Villalobos | Wilson |
| Storms | Webster | Wise |

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for CS for SB 1286**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for CS for SB 1286, same being:

An act relating to **Fish and Wildlife Conservation Commission**; amending provisions relating to vessel registration and vessel registration numbers, increasing vessel registration fees for all vessels requiring registration, providing for future adjustment of the recreational hunting and fishing licenses based on the percentage change in the Consumer Pricing Index. Requiring the commission to report to the Legislature on how the increase in license and permit fees will be used, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 721999;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 293944 to CS for CS for SB 1286 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
Paula Dockery
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large

Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large

Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (293944)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. *Section 20.331, Florida Statutes, is reenacted.*

Section 2. Subsection (2) of section 328.48, Florida Statutes, is amended to read:

328.48 Vessel registration, application, certificate, number, decal, duplicate certificate.—

(2) All vessels used on the waters of the state must be registered, either commercial or recreational as defined in this chapter, except as follows:

(a) A vessel used exclusively on private lakes and ponds.

(b) A vessel owned by the United States Government.

(c) A vessel used exclusively as a ship's lifeboat.

(d) A non-motor-powered vessel *less than 16 feet in length, and any non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length*.

Section 3. Subsection (4) of section 328.56, Florida Statutes, is amended to read:

328.56 Vessel registration number.—Each vessel that is used on the waters of the state must display a commercial or recreational Florida registration number, unless it is:

(4) A non-motor-powered vessel *less than 16 feet in length, and any non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length*.

Section 4. Subsections (1) and (14) of section 328.72, Florida Statutes, are amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(1) VESSEL REGISTRATION FEE.—

*(a)* Vessels that are required to be registered shall be classified for registration purposes according to the following schedule, and the registration certificate fee shall be in the following amounts:

Class A-1—Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: *$5.50* ~~$3.50~~ for each 12-month period registered.

Class A-2—12 feet or more and less than 16 feet in length: *$16.25* ~~10.50~~ for each 12-month period registered.
(To county): 2.85 for each 12-month period registered.

Class 1—16 feet or more and less than 26 feet in length: *$28.75* ~~18.50~~ for each 12-month period registered.
(To county): 8.85 for each 12-month period registered.

Class 2—26 feet or more and less than 40 feet in length: *$78.25* ~~50.50~~ for each 12-month period registered.
(To county): 32.85 for each 12-month period registered.

Class 3—40 feet or more and less than 65 feet in length: *$127.75* ~~82.50~~ for each 12-month period registered.
(To county): 56.85 for each 12-month period registered.

Class 4—65 feet or more and less than 110 feet in length: *$152.75* ~~98.50~~ for each 12-month period registered.
(To county): 68.85 for each 12-month period registered.

Class 5—110 feet or more in length: *$189.75* ~~122.50~~ for each 12-month period registered.
(To county): 86.85 for each 12-month period registered.

Dealer registration certificate: *$25.50* ~~16.50~~ for each 12-month period registered.

The county portion of the vessel registration fee is derived from recreational vessels only.

*(b) In 2013 and every 5 years thereafter, vessel registration fees shall be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers since the fees were last adjusted, unless otherwise provided by general law. By February 1 of each year in which an adjustment is scheduled to occur, the Fish and Wildlife Conservation Commission shall submit a report to the President of the Senate and the Speaker of the House of Representatives detailing how the increase in vessel registration fees will be used within the agency. The vessel registration fee increases shall take effect July 1 of each adjustment year.*

(14) EXEMPTIONS.—*The following vessels are exempt from provisions of subsection (1):*

*(a) A vessel that is* ~~Vessels~~ owned and operated by Sea Explorer or Sea Scout units of the Boy Scouts of America, the Girl Scouts of America, the Florida Association of Christian Child Caring Agencies, Inc., Safe Harbor Haven, Inc., or the Associated Marine Institutes, Inc., and its affiliates~~, or which are~~

*(b) An* antique *vessel* ~~vessels~~ as defined in paragraph (2)(a) ~~are exempt from the provisions of subsection (1)~~.

*(c) A non-motor-powered sailing vessel that is owned by a nonprofit entity and used exclusively for teaching boating safety, boat handling, or seamanship skills, including the racing of such sailing vessels.*

Such vessels shall be issued certificates of registration and numbers upon application and payment of the service fee provided in subsection (7).

Section 5. Subsection (1) of section 372.57, Florida Statutes, is amended to read:

372.57 Recreational licenses, permits, and authorization numbers; fees established.—

(1) LICENSE, PERMIT, OR AUTHORIZATION NUMBER REQUIRED.—

*(a)* Except as provided in s. 372.562, no person shall take game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the fees set forth in this chapter. Such license, permit, or authorization number shall authorize the person to whom it is issued to take game, freshwater or saltwater fish, or fur-bearing animals, and participate in outdoor recreational activities in accordance with the laws of the state and rules of the commission.

*(b) In 2013 and every 5 years thereafter, license and permit fees established in subsections (4) and (5) shall be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers since the fees were last adjusted, unless otherwise provided by general law. By February 1 of each year in which an adjustment is scheduled to occur, the Fish and Wildlife Conservation Commission shall submit a report to the President of the Senate and the Speaker of the House of Representatives detailing how the increase in license and permit fees will be used within the agency. The license and permit fee increases shall take effect July 1 of each adjustment year.*

Section 6. *The Office of Program Policy Analysis and Government Accountability is directed to review and compare the Fish and Wildlife Conservation Commission's public relations and outreach staffing levels in its Executive Direction and Administrative Services division to an agency of similar makeup and size in order to determine whether any efficiencies can be achieved through restructuring or downsizing. The office shall provide its findings and recommendations in the form of a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.*

Section 7. *The Office of Program Policy Analysis and Government Accountability is directed to review the outreach and education activities of the Fish and Wildlife Conservation Commission's Freshwater Fisheries and Marine Fisheries Management divisions in order to determine if there is any duplication of efforts with other state agencies or if efficiencies can be achieved through restructuring or combining programs. The office shall provide its findings and recommendations in the form of a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.*

Section 8. *The Fish and Wildlife Conservation Commission is directed to complete a 5-year "Air Station" conceptual plan, designed to improve agency aircraft operations and maintenance efficiency, and provide its finding and recommendations in a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.*

Section 9. *The Fish and Wildlife Conservation Commission is directed to review its current land management activities and provide recommendations for combining duplicative activities with other state agencies or for outsourcing activities in order to gain efficiencies or create cost-saving benefits. The commission shall provide its findings and recommendations in a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.*

Section 10. *The Fish and Wildlife Conservation Commission is directed to conduct a cost-benefit analysis of the activities of the Fish and Wildlife Research Institute (FWRI), such as, but not limited to, its geographic information system (GIS) technical support, and provide recommendations on any efficiencies or cost-savings benefits that may be gained from outsourcing those activities. The commission shall provide its findings and recommendations in a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.*

Section 11. *Sections 372.107, 372.5714, 372.673, and 372.992, Florida Statutes, are repealed.*

Section 12. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; reenacting s. 20.331, F.S., relating to the establishment of the commission; amending ss. 328.48 and 328.56, F.S., relating to vessel registration and vessel registration numbers; clarifying the term "non-motor-powered vessel" for purposes of an exception from registration requirements; amending s. 328.72, F.S., relating to vessel registration fees; increasing such fees for all vessels requiring registration; providing for future adjustment of the vessel registration fees based on the percentage change in the Consumer Pricing Index; requiring the Fish and

Wildlife Conservation Commission to report to the Legislature on how the increase in fees will be used; exempting certain non-motor-powered vessels from requirements concerning vessel registration fees; amending s. 372.57, F.S., relating to recreational hunting and fishing licenses; providing for future adjustment of the recreational hunting and fishing licenses based on the percentage change in the Consumer Pricing Index; requiring the Fish and Wildlife Conservation Commission to report to the Legislature on how the increase in license and permit fees will be used; requiring the Office of Program Policy Analysis and Government Accountability to review and report on the Fish and Wildlife Conservation Commission's public relations, outreach, and education activities and staffing levels by a date certain; requiring the Fish and Wildlife Conservation Commission to review and report on specific activities within the agency by a date certain; repealing sections 372.107, 372.5714, 372.673, and 372.992, F.S., relating to the Federal Law Enforcement Trust Fund, the Waterfowl Advisory Council, the Florida Panther Technical Advisory Council, and the Nongame Wildlife Advisory Council; providing an effective date.

The Conference Committee Report was read and on motion by Senator Alexander was adopted. **CS for CS for SB 1286** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—35

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Atwater | Gaetz | Peaden |
| Baker | Garcia | Rich |
| Bennett | Geller | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wise |
| Diaz de la Portilla | Lynn | |

Nays—None

Vote after roll call:

Yea—Posey

Nay—Haridopolos

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for CS for SB 1294**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for CS for SB 1294, same being:

An act relating to **Department of Environmental Protection**; reenacting and amending a specified provision under the Florida Government Accountability Act relating to the establishment of the Department of Environmental Protection (DEP), requiring a dry-cleaning facility to display a current and valid DEP certificate of registration. Conforming the definition of the term "regulated air pollutant" to changes made in the federal Clean Air Act, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 767797;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 929760 to CS for CS for SB 1294 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
Paula Dockery,
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (929760)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 20.255, Florida Statutes, is reenacted and amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(1) The head of the Department of Environmental Protection shall be a secretary, who shall be appointed by the Governor, with the concurrence of three or more members of the Cabinet. The secretary shall be confirmed by the Florida Senate. The secretary shall serve at the pleasure of the Governor.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff*;*~~,~~

2. Office of General Counsel*;*~~,~~

3. Office of Inspector General*;*~~,~~

4. Office of External Affairs*;*~~,~~

5. Office of Legislative ~~and Government~~ Affairs*;*~~, and~~

*6. Office of Intergovernmental Programs; and*

*7.*~~6.~~ Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j).

(3) The following divisions of the Department of Environmental Protection are established:

(a) Division of Administrative Services.

(b) Division of Air Resource Management.

(c) Division of Water Resource Management.

(d) Division of Law Enforcement.

(e) Division of *Environmental Assessment and Restoration* ~~Resource Assessment and Management~~.

(f) Division of Waste Management.

(g) Division of Recreation and Parks.

(h) Division of State Lands, the director of which is to be appointed by the secretary of the department, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

In order to ensure statewide and intradepartmental consistency, the department's divisions shall direct the district offices and bureaus on matters of interpretation and applicability of the department's rules and programs.

(4) Law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.

(5) Records and documents of the Department of Environmental Protection shall be retained by the department as specified in record retention schedules established under the general provisions of chapters 119 and 257. Further, the department is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the Department of Environmental Protection on a certificate made by the department and signed by the Secretary of Environmental Protection entitles the certificate to be received in all courts and in all proceedings in this state and is prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records as set forth in the certificate or in a schedule attached to the certificate.

(6) The Department of Environmental Protection may require that bond be given by any employee of the department, payable to the Governor of the state and the Governor's successor in office, for the use and benefit of those whom it concerns, in such penal sums and with such good and sufficient surety or sureties as are approved by the department, conditioned upon the faithful performance of the duties of the employee.

(7) There is created as a part of the Department of Environmental Protection an Environmental Regulation Commission. The commission shall be composed of seven residents of this state appointed by the Governor, subject to confirmation by the Senate. In making appointments, the Governor shall provide reasonable representation from all sections of the state. Membership shall be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The Governor shall appoint the chair, and the vice chair shall be elected from among the membership. All appointments shall be for 4-year terms. The Governor may at any time fill a vacancy for the unexpired term. The members of the commission shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties. Administrative, personnel, and other support services necessary for the commission shall be furnished by the department. *The commission may employ independent counsel and contract for the services of outside technical consultants.*

(8) The department is the agency of state government responsible for collecting and analyzing information concerning energy resources in this state; for coordinating the energy conservation programs of state agencies; and for coordinating the development, review, and implementation of the state's energy policy.

Section 2. Section 211.3103, Florida Statutes, is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(1) There is hereby levied an excise tax upon every person engaging in the business of severing phosphate rock from the soils or waters of this state for commercial use. The tax shall be collected, administered, and enforced by the department.

~~(2) Beginning July 1, 2003, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:~~

~~(a) The first $10 million in revenue collected from the tax during each fiscal year shall be paid to the credit of the Conservation and Recreation Lands Trust Fund.~~

~~(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:~~

~~1. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 18.75 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.~~

~~2. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 15 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year.~~

~~3. To the credit of the Phosphate Research Trust Fund in the Department of Education, 11.25 percent.~~

~~4. To the credit of the Minerals Trust Fund, 11.25 percent.~~

~~5. To the credit of the Nonmandatory Land Reclamation Trust Fund, 43.75 percent.~~

*(2)*~~(3)~~ Beginning July 1, 2004, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:

(a) The first $10 million in revenue collected from the tax during each fiscal year shall be paid to the credit of the Conservation and Recreation Lands Trust Fund.

(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:

1. To the credit of the General Revenue Fund of the state, 40.1 percent.

2. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 16.5 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

3. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 13 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Payments under this subparagraph shall be made to the counties unless the Legislature by special act creates a local authority to promote and direct the economic development of the county. If such authority exists, payments shall be made to that authority.

4. To the credit of the Phosphate Research Trust Fund in the Division of Universities of the Department of Education, 9.3 percent.

5. To the credit of the Minerals Trust Fund, 10.7 percent.

6. To the credit of the Nonmandatory Land Reclamation Trust Fund, 10.4 percent.

*(3)*~~(4)~~ Beginning July 1, 2003, and annually thereafter, the Department of Environmental Protection may use up to $2 million of the funds in the Nonmandatory Land Reclamation Trust Fund to purchase a surety bond or a policy of insurance, the proceeds of which would pay the cost of restoration, reclamation, and cleanup of any phosphogypsum stack system and phosphate mining activities in the event that an operator or permittee thereof has been subject to a final order of bankruptcy and all funds available therefrom are determined to be inadequate to accomplish such restoration, reclamation, and cleanup. This section does not imply that such operator or permittee is thereby relieved of its obligations or relieved of any liabilities pursuant to any other remedies at law, administrative remedies, statutory remedies, or remedies pursuant to bankruptcy law. The department shall adopt rules to implement this subsection, including the purchase and oversight of the bond or policy.

*(4)*~~(5)~~ Funds distributed pursuant to subparagraphs *(2)(b)3.* ~~(2)(b)2.~~ and *(11)(e)4.* ~~(3)(b)3.~~ shall be used for:

(a) Planning, preparing, and financing of infrastructure projects for job creation and capital investment, especially those related to industrial and commercial sites. Infrastructure investments may include the following public or public-private partnership facilities: stormwater systems, telecommunications facilities, roads or other remedies to transportation impediments, nature-based tourism facilities, or other physical requirements necessary to facilitate trade and economic development activities.

(b) Maximizing the use of federal, local, and private resources, including, but not limited to, those available under the Small Cities Community Development Block Grant Program.

(c) Projects that improve inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, if such projects are related to specific job creation or job retention opportunities.

*(5)*~~(6)~~ Beginning January 1, 2004, the tax rate shall be the base rate of $1.62 per ton severed.

*(6)*~~(7)~~ Beginning January 1, 2005, and annually thereafter, the tax rate shall be the base rate times the base rate adjustment for the tax year as calculated by the department in accordance with subsection *(8)* ~~(9)~~.

*(7)*~~(8)~~ The excise tax levied by this section shall apply to the total production of the producer during the taxable year, measured on the basis of bone-dry tons produced at the point of severance.

*(8)*~~(9)~~(a) On or before March 30, 2004, and annually thereafter, the department shall calculate the base rate adjustment, if any, for phosphate rock based on the change in the unadjusted annual producer price index for the prior calendar year in relation to the unadjusted annual producer price index for calendar year 1999.

(b) For the purposes of determining the base rate adjustment for any year, the base rate adjustment shall be a fraction, the numerator of which is the unadjusted annual producer price index for the prior calendar year and the denominator of which is the unadjusted annual producer price index for calendar year 1999.

(c) The department shall provide the base rate, the base rate adjustment, and the resulting tax rate to affected producers by written notice on or before April 15 of the current year.

(d) If the producer price index for phosphate rock is substantially revised, the department shall make appropriate adjustment in the method used to compute the base rate adjustment under this subsection which will produce results reasonably consistent with the result that would have been obtained if the producer price index for phosphate rock had not been revised. However, the tax rate shall not be less than *$1.51* ~~$1.56~~ per ton severed.

(e) If the producer price index for phosphate rock is discontinued, a comparable index shall be selected by the department and adopted by rule.

*(9)*~~(10)~~ The excise tax levied on the severance of phosphate rock shall be in addition to any ad valorem taxes levied upon the separately assessed mineral interest in the real property upon which the site of severance is located, or any other tax, permit, or license fee imposed by the state or its political subdivisions.

*(10)*~~(11)~~ The tax levied by this section shall be collected in the manner prescribed in s. 211.33.

*(11)(a) Beginning July 1, 2008, there is hereby levied a surcharge of $1.38 per ton severed in addition to the excise tax levied by this section. The surcharge shall be levied until the last day of the calendar quarter in which the total revenue generated by the surcharge equals $60 million. Revenues derived from the surcharge shall be deposited into the Nonmandatory Land Reclamation Trust Fund and shall be exempt from the general revenue service charge provided in s. 215.20. Revenues derived from the surcharge shall be used to augment funds appropriated for the rehabilitation, management, and closure of the Piney Point and Mulberry sites and for approved reclamation of nonmandatory lands in accordance with chapter 378. A minimum of 75 percent of the revenues from the surcharge shall be dedicated to the Piney Point and Mulberry sites.*

*(b) Beginning July 1, 2008, the excise tax rate shall be $1.945 per ton severed and the base rate adjustment provided in subsection (6) shall not apply.*

*(c) Beginning July 1 of the fiscal year following the date on which the amount of revenues collected from the surcharge equals or exceeds $60 million, the tax rate shall be the base rate of $1.51 per ton severed and the base rate adjustment provided in subsection (6) shall not apply until the conditions of paragraph (d) are met.*

*(d) Beginning July 1 of the fiscal year following the date on which a taxpayer's surcharge offset equals or exceeds the total amount of surcharge remitted by such taxpayer under paragraph (a), and each year thereafter, the excise tax rate levied on such taxpayer shall be adjusted as provided in subsection (6). The surcharge offset for each taxpayer is an amount calculated by the department equal to the cumulative difference between the amount of excise tax that would have been collected under subsections (5) and (6) and the excise tax collected under paragraph (c) from such taxpayer.*

*(e) Beginning July 1 of the fiscal year after the revenues from the surcharge equal $60 million, the proceeds of all taxes, interest, and penalties imposed under this section shall be exempt from the general revenue service charge provided in s. 215.20, and shall be paid into the State Treasury as follows:*

*1. To the credit of the Conservation and Recreation Lands Trust Fund, 25.5 percent.*

*2. To the credit of the General Revenue Fund of the state, 37 percent.*

*3. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 13.6 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.*

*4. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 10.7 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Payments under this subparagraph shall be made to the counties unless the Legislature by special act creates a local authority to promote and direct the economic development of the county. If such authority exists, payments shall be made to that authority.*

*5. To the credit of the Nonmandatory Land Reclamation Trust Fund, 6.6 percent.*

*6. To the credit of the Phosphate Research Trust Fund in the Division of Universities of the Department of Education, 6.6 percent.*

*(f) For purposes of this section, "phosphate-related expenses" means those expenses that provide for infrastructure or services in support of the phosphate industry, reclamation or restoration of phosphate lands, community infrastructure on such reclaimed lands, and similar expenses directly related to support of the industry.*

Section 3. Subsection (1) of section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75 and 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection. *The board of trustees may also delegate to the Fish and Wildlife Conservation Commission the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under s. 369.20.*

Section 4. Subsection (15) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(15) Activities associated with mining operations as defined by and subject to ss. 378.201-378.212 and 378.701-378.703 and included in a conceptual reclamation plan or modification application submitted prior to July 1, 1996, shall continue to be reviewed under the rules of the department adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, the rules of the water management districts under this part, and interagency agreements, in effect on January 1, 1993. Such activities shall be exempt from rules adopted pursuant to subsection (9) and the statewide methodology ratified pursuant to s. 373.4211. As of January 1, 1994, such activities may be issued permits authorizing construction for the life of the mine. *Lands added to a conceptual reclamation plan subject to this subsection through a modification submitted after July 1, 1996, which are contiguous to the conceptual reclamation plan area shall be exempt from rules adopted under subsection (9), except that the total acreage of the conceptual reclamation plan may not be increased through such modification and the cumulative acreage added may not exceed 3 percent of the conceptual reclamation plan area. Lands that have been mined or disturbed by mining activities, lands subject to a conservation easement under which the grantee is a state or federal regulatory agency, and lands otherwise preserved as part of a permitting review may not be removed from the conceptual reclamation land area under this subsection.*

Section 5. Subsection (3) is added to section 378.205, Florida Statutes, to read:

378.205 Administration; powers and duties of the department; agency review responsibility.—

*(3) Administrative challenges to proposed state agency actions regarding phosphate mines and reclamation pursuant to this chapter or part IV of chapter 373 are subject to the summary hearing provisions of s. 120.574, except that the summary proceeding must be conducted within 90 days after a party files a motion for summary hearing, regardless of whether the parties agree to the summary proceeding and the administrative law judge's decision is a recommended order and not a final order.*

Section 6. Section 369.20, Florida Statutes, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(1) This act shall be known as the "Florida Aquatic Weed Control Act."

(2) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall direct the control, eradication, and regulation of noxious aquatic weeds and direct the research and planning related to these activities, as provided in this section, ~~excluding the authority to use fish as a biological control agent,~~ so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant and animal life and property.

(3) It shall be the duty of the *commission* ~~department~~ to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to *any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body* ~~the Fish and Wildlife Conservation Commission~~.

(4) The *commission* ~~department~~ shall also promote, develop, and support research activities directed toward the more effective and efficient control of aquatic plants. In the furtherance of this purpose, the *commission* ~~department~~ is authorized to:

(a) Accept donations and grants of funds and services from both public and private sources;

(b) Contract or enter into agreements with public or private agencies or corporations for research and development of aquatic plant control methods or for the performance of aquatic plant control activities;

(c) Construct, acquire, operate, and maintain facilities and equipment; and

(d) Enter upon, or authorize the entry upon, private property for purposes of making surveys and examinations and to engage in aquatic plant control activities; and such entry shall not be deemed a trespass.

(5) The *commission* ~~Department of Environmental Protection~~ may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants, upon:

~~(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;~~

*(a)*~~(b)~~ Approval by the *commission* ~~department~~ of the control techniques to be used by the district or authority; and

*(b)*~~(c)~~ Review and approval of the program of the district or authority by the *commission* ~~department to be in conformance with the state control plan~~.

(6) The *commission* ~~department~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

(7) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic weeds or plants in waters of the state unless a permit for such activity has been issued by the *commission* ~~department, or~~ unless the activity *or* ~~is in~~ waters *are* expressly exempted by *commission* ~~department~~ rule. The *commission* ~~department~~ shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities*, including applications to engage in control activities on sovereign submerged lands,* shall be made to the *commission* ~~department~~. In reviewing such applications, the *commission* ~~department~~ shall consider the criteria set forth in subsection (2) *and, in accordance with applicable rules, take final agency action on permit applications for the use of aquatic plant control activities on sovereign submerged lands*.

(8) As an exemption to all permitting requirements in this section and ss. 369.22 and 369.25, in all freshwater bodies, except aquatic preserves designated under chapter 258 and Outstanding Florida Waters designated under chapter 403, a riparian owner may physically or mechanically remove herbaceous aquatic plants and semiwoody herbaceous plants, such as shrub species and willow, within an area delimited by up to 50 percent of the property owner's frontage or 50 feet, whichever is less, and by a sufficient length waterward from, and perpendicular to, the riparian owner's shoreline to create a corridor to allow access for a boat or swimmer to reach open water. All unvegetated areas shall be cumulatively considered when determining the width of the exempt corridor. Physical or mechanical removal does not include the use of any chemicals or any activity that requires a permit pursuant to part IV of chapter 373.

(9) A permit issued pursuant to this section for the application of herbicides to waters in the state for the control of aquatic plants, algae, or invasive exotic plants is exempt from the requirement to obtain a water pollution operation permit pursuant to s. 403.088.

*(10) Notwithstanding s. 369.25, the commission may collect aquatic plants to be used for habitat enhancement, research, education, and for other purposes as necessary to implement the provisions of this section.*

*(11) The commission may quarantine or confiscate noxious aquatic plant material incidentally adhering to a boat or boat trailer.*

*(12) The commission may conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.*

Section 7. Section 369.22, Florida Statutes, is amended to read:

369.22 ~~Nonindigenous~~ Aquatic plant *management* ~~control~~.—

(1) This section shall be known as the "Florida ~~Nonindigenous~~ Aquatic Plant *Management* ~~Control~~ Act."

(2) For the purpose of this section, the following words and phrases shall have the following meanings:

(a) *"Commission" means the Fish and Wildlife Conservation Commission* ~~"Department" means the Department of Environmental Protection~~.

(b) "Aquatic plant" is any plant growing in, or closely associated with, the aquatic environment and includes "floating," "emersed," "submersed," and "ditch bank" species.

~~(c) "Nonindigenous aquatic plant" is any aquatic plant that is nonnative to the State of Florida and has certain characteristics, such as massive productivity, choking density, or an obstructive nature, which render it detrimental, obnoxious, or unwanted in a particular location.~~

*(c)*~~(d)~~ A "maintenance program" is a method for the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants in which control techniques are utilized in a coordinated manner ~~on a continuous basis in order to maintain the plant population at the lowest feasible level~~ as determined by the *commission* ~~department~~.

*(d)*~~(e)~~ An "eradication program" is a method for the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants in which control techniques are utilized in a coordinated manner in an attempt to kill all the aquatic plants on a permanent basis in a given geographical area.

*(e)*~~(f)~~ A "complaint spray program" is a method for the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants in which weeds are allowed to grow unhindered to a given level of undesirability, at which point eradication techniques are applied in an effort to restore the area in question to a relatively low level of infestation.

*(f)*~~(g)~~ "Waters" means rivers, streams, lakes, navigable waters and associated tributaries, canals, meandered lakes, enclosed water systems, and any other bodies of water.

~~(h) "Intercounty waters" means any waters which lie in more than one county or form any part of the boundary between two or more counties, as determined by the department.~~

~~(i) "Intracounty waters" means any waters which lie wholly within the boundaries of one county as determined by the department.~~

*(g)*~~(j)~~ "Districts" means the six water management districts created by law and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, the Central and Southern Florida Flood Control District, and the Ridge and Lower Gulf Coast Water Management District; and on July 1, 1975, shall mean the five water management districts created by chapter 73-190, Laws of Florida, and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.

(3) The Legislature recognizes that the uncontrolled growth of ~~nonindigenous~~ aquatic plants in the waters of Florida poses a variety of environmental, health, safety, and economic problems. The Legislature acknowledges the responsibility of the state to cope with the uncontrolled and seemingly never-ending growth of ~~nonindigenous~~ aquatic plants in the waters throughout Florida. It is, therefore, the intent of the Legislature that the state policy for the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants in waters of state responsibility be carried out under the general supervision and control of the *commission* ~~department, and that the state itself be responsible for the control of such plants in all intercounty waters; but that control of such plants in intracounty waters be the designated responsibility of the appropriate unit of local or county government, special district, authority, or other public body~~. It is the intent of the Legislature that the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants be carried out primarily by means of maintenance programs, rather than eradication or complaint spray programs, for the purpose of achieving more effective *management* ~~control~~ at a lower long-range cost. It is also the intent of the Legislature that the *commission* ~~department~~ guide, review, approve, and coordinate all ~~nonindigenous~~ aquatic plant *management* ~~control~~ programs within each of the water management districts as defined in paragraph *(2)(g)* ~~(2)(j)~~. It is the intent of the Legislature to account for the costs of ~~nonindigenous~~ aquatic plant *management* ~~maintenance~~ programs by watershed for comparison ~~management~~ purposes.

(4) The *commission* ~~department~~ shall supervise and direct all *management* ~~maintenance~~ programs for ~~control of nonindigenous~~ aquatic plants, as provided in this section, ~~excluding the authority to use fish as a biological control agent,~~ so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant, fish, and animal life and to property.

(5) When state funds are involved, or when waters of state responsibility are involved, it is the duty of the *commission* ~~department~~ to guide, review, approve, and coordinate the activities of all public bodies, authorities, state agencies, units of local or county government, commissions, districts, and special districts engaged in operations to *manage* ~~maintain, control,~~ or eradicate ~~nonindigenous~~ aquatic plants~~, except for activities involving biological control programs using fish as the control agent~~. The *commission* ~~department~~ may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body. However, special attention shall be given to the keeping of accounting and cost data in order to prepare the annual fiscal report required in subsection (7).

(6) The *commission* ~~department~~ may disburse funds to any district, special district, or other local authority for the purpose of operating a ~~maintenance~~ program for *managing* ~~controlling nonindigenous~~ aquatic plants ~~and other noxious aquatic plants~~ in the waters of state responsibility upon:

~~(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;~~

*(a)*~~(b)~~ Approval by the *commission* ~~department~~ of the *management* ~~maintenance control~~ techniques to be used by the district or authority; and

*(b)*~~(c)~~ Review and approval of the program of the district or authority by the *commission* ~~department to be in conformance with the state maintenance control plan~~.

(7) The *commission* ~~department~~ shall *prepare* ~~submit~~ an annual report on the status of the ~~nonindigenous~~ aquatic plant *management* ~~maintenance~~ program *which shall be posted on the commission's Internet website* ~~to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet by January 1 of the following year~~. ~~This report shall include a statement of the degree of maintenance control achieved by individual nonindigenous aquatic plant species in the intercounty waters of each of the water management districts for the preceding county fiscal year, together with an analysis of the costs of achieving this degree of control. This cost accounting shall include the expenditures by all governmental agencies in the waters of state responsibility. If the level of maintenance control achieved falls short of that which is deemed adequate by the department, then the report shall include an estimate of the additional funding that would have been required to achieve this level of maintenance control. All measures of maintenance program achievement and the related cost shall be presented by water management districts so that comparisons may be made among the water management districts, as well as with the state as a whole.~~

(8) The *commission* ~~department~~ shall have the authority to cooperate with the United States and to enter into such cooperative agreements or commitments as the *commission* ~~department~~ may determine necessary to carry out the ~~maintenance,~~ control~~,~~ or eradication of water hyacinths, alligator weed, and other noxious aquatic plant growths from the waters of the state and to enter into contracts with the United States obligating the state to indemnify and save harmless the United States from any and all claims and liability arising out of the initiation and prosecution of any project undertaken under this section. However, any claim or claims required to be paid under this section shall be paid from money appropriated to the ~~nonindigenous~~ aquatic plant *management* ~~control~~ program.

(9) The *commission* ~~department~~ may delegate various ~~nonindigenous~~ aquatic plant *management* ~~control and maintenance~~ functions to *any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body* ~~the Fish and Wildlife Conservation Commission~~. The *recipient of such delegation* ~~commission~~ shall, in accepting commitments to engage in ~~nonindigenous~~ aquatic plant *management* ~~control and maintenance~~ activities, be subject to the rules of the *commission* ~~department, except that the commission shall regulate, control, and coordinate the use of any fish for aquatic weed control in fresh waters of the state~~. In addition, the *recipient* ~~commission~~ shall render technical and other assistance to the *commission* ~~department~~ in order to carry out most effectively the purposes of s. 369.20. ~~However, nothing herein shall diminish or impair the regulatory authority of the commission with respect to the powers granted to it by s. 9, Art. IV of the State Constitution.~~

(10) The *commission* ~~department~~ is directed to use biological agents~~, excluding fish,~~ for the *management* ~~control~~ of ~~nonindigenous~~ aquatic plants *when determined to be appropriate by the commission*.

(11) The *commission* ~~department~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

(12) No person or public agency shall control, eradicate, remove, or otherwise alter any ~~nonindigenous~~ aquatic plants in waters of the state unless a permit for such activity has been issued by the *commission* ~~department~~, or unless the activity *or* ~~is in~~ waters *are* expressly exempted

by *commission* ~~department~~ rule. The *commission* ~~department~~ shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant *management* ~~control~~ activities*, including applications to engage in management activities on sovereign submerged lands,* shall be made to the *commission* ~~department~~. In reviewing such applications, the *commission* ~~department~~ shall consider the criteria set forth in subsection (4) *and, in accordance with applicable rules, shall take final agency action on permit applications for the use of aquatic plant activities on sovereign submerged lands*.

Section 8. Section 369.25, Florida Statutes, is amended to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

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

(a) "Aquatic plant" means any plant, including a floating, emersed, submersed, or ditch bank species, growing in, or closely associated with, an aquatic environment and includes any part or seed of such plant.

(b) "Department" means the Department of *Agriculture and Consumer Services* ~~Environmental Protection~~.

(c) "Nonnursery cultivation" means the tending of aquatic plant species for harvest in the natural environment.

(d) "Noxious aquatic plant" means any part, including, but not limited to, seeds or reproductive parts, of an aquatic plant which has the potential to hinder the growth of beneficial plants, interfere with irrigation or navigation, or adversely affect the public welfare or the natural resources of this state.

(e) "Person" includes a natural person, a public or private corporation, a governmental entity, or any other kind of entity.

(2) No person shall engage in any business involving the importation, transportation, ~~nonnursery~~ cultivation, collection, sale, or possession of any aquatic plant species without a permit issued by the department ~~or the Department of Agriculture and Consumer Services~~. No person shall import, transport, ~~nonnursery~~ cultivate, collect, sell, or possess any noxious aquatic plant listed on the prohibited aquatic plant list established by the department without a permit issued by the department ~~or the Department of Agriculture and Consumer Services~~. No permit shall be issued until the department determines that the proposed activity poses no threat or danger to the waters, wildlife, natural resources, or environment of the state.

(3) The department has the following powers:

(a) To make such rules governing the importation, transportation, nonnursery cultivation, collection, and possession of aquatic plants as may be necessary for the eradication, control, or prevention of the dissemination of noxious aquatic plants that are not inconsistent with rules of the *Fish and Wildlife Conservation Commission* ~~Department of Agriculture and Consumer Services~~.

(b) To establish by rule lists of aquatic plant species regulated under this section, including those exempted from such regulation, provided ~~the Department of Agriculture and Consumer Services and~~ the Fish and Wildlife Conservation Commission *approves* ~~approve~~ such lists prior to the lists becoming effective.

(c) To evaluate an aquatic plant species through research or other means to determine whether such species poses a threat or danger to the waters, wildlife, natural resources, or environment of the state.

(d) To declare a quarantine against aquatic plants, including the vats, pools, or other containers or bodies of water in which such plants are growing, ~~except in aquatic plant nurseries,~~ to prevent the dissemination of any noxious aquatic plant.

(e) To make rules governing the application for, issuance of, suspension of, and revocation of permits under this section.

(f) To enter into cooperative agreements with any person as necessary or desirable to carry out and enforce the provisions of this section.

(g) To purchase all necessary supplies, material, *facilities,* and equipment and accept all grants and donations useful in the implementation and enforcement of the provisions of this section.

(h) To enter upon and inspect any facility or place~~, except aquatic plant nurseries regulated by the Department of Agriculture and Consumer Services,~~ where aquatic plants are cultivated, held, packaged, shipped, stored, or sold, or any vehicle of conveyance of aquatic plants, to ascertain whether the provisions of this section and department regulations are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department regulations.

~~(i) To conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.~~

*(i)*~~(j)~~ To adopt rules requiring the revegetation of a site on sovereignty lands where excessive collection has occurred.

*(j)*~~(k)~~ To enforce this chapter in the same manner and to the same extent as provided in *s. 581.211* ~~ss. 403.121, 403.131, 403.141, and 403.161~~.

(4) The department shall adopt rules *that* ~~which~~ limit the sanctions available for violations under this act to quarantine and confiscation:

(a) If the prohibited activity apparently results from natural dispersion; or

(b) If a small amount of noxious aquatic plant material incidentally adheres to a boat or boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act.

(5)(a) Any person who violates the provisions of this section *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All law enforcement officers of the state and its agencies with power to make arrests for violations of state law shall enforce the provisions of this section.

Section 9. Section 369.251, Florida Statutes, is amended to read:

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(1) A person may not sell, transport, collect, cultivate, or possess any plant, including any part or seed, of the species Melaleuca quinquenervia, Schinus terebinthifolius, Casuarina equisetifolia, Casuarina glauca, or Mimosa pigra without a permit from the Department *of Agriculture and Consumer Services*. Any person who violates this section commits a misdemeanor of the second degree, punishable by fine only, as provided in s. 775.083.

(2) The department*, in coordination with the Fish and Wildlife Conservation Commission,* shall study methods of control of plants of the species Melaleuca quinquenervia, Schinus terebinthifolius, Casuarina equisetifolia, Casuarina glauca, and Mimosa pigra. The South Florida Water Management District shall undertake programs to remove such plants from conservation area I, conservation area II, and conservation area III of the district.

(3) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

Section 10. Section 369.252, Florida Statutes, is amended to read:

369.252 Invasive ~~exotic~~ plant control on public lands.—The *Fish and Wildlife Conservation Commission* ~~department~~ shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment or when the Commissioner of Agriculture finds that such plants or specific populations thereof are a threat to the agricultural productivity of the state;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the eradication or maintenance control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental or private sector entities for research concerning control agents; production and growth of biological control agents; and development of workable methods for the eradication or maintenance control of invasive exotic plants on public lands; and

(4) Use funds in the Invasive Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands. *A minimum of 20* ~~Twenty~~ percent of the amount credited to the Invasive Plant Control Trust Fund pursuant to s. 201.15(6) shall be used for the purpose of controlling nonnative, upland, invasive plant species on public lands.

Section 11. Paragraph (a) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) $6.30 million shall be transferred to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ in each fiscal year and deposited in the Invasive Plant Control Trust Fund to be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. Beginning in fiscal year 1993-1994, the department shall allocate at least $1 million of such funds to the eradication of melaleuca.

Section 12. Paragraphs (b) and (c) of subsection (1) of section 328.76, Florida Statutes, are amended to read:

328.76 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified in this subsection and less $1.4 million for any administrative costs which shall be deposited in the Highway Safety Operating Trust Fund, in each fiscal year beginning on or after July 1, 2001, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state, except for those funds designated as the county portion pursuant to s. 328.72(1), shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 328.72(1) shall be transferred as follows:

(b) An amount equal to $2 from each recreational vessel registration fee, except that for class A-1 vessels, shall be transferred by the Department of Highway Safety and Motor Vehicles to the Invasive Plant Control Trust Fund in the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ for aquatic weed research and control.

(c) An amount equal to 40 percent of the registration fees from commercial vessels shall be transferred by the Department of Highway Safety and Motor Vehicles to the Invasive Plant Control Trust Fund in the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ for aquatic plant research and control.

Section 13. Section 373.228, Florida Statutes, is amended to read:

373.228 Landscape irrigation design.—

(1) The Legislature finds that multiple areas throughout the state have been identified by water management districts as water resource caution areas, which indicates that in the near future water demand in those areas will exceed the current available water supply and that conservation is one of the mechanisms by which future water demand will be met.

(2) The Legislature finds that landscape irrigation comprises a significant portion of water use and that the current typical landscape irrigation system and xeriscape designs offer significant potential water conservation benefits.

(3) It is the intent of the Legislature to improve landscape irrigation water use efficiency by ensuring that landscape irrigation systems meet or exceed minimum design criteria.

(4) The water management districts shall work with the Florida Nurserymen and Growers Association, the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Department of Agriculture and Consumer Services, the Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the Department of Transportation, the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Community Developers to develop landscape irrigation and xeriscape design standards for new construction which incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping. The landscape and irrigation design standards shall be based on the irrigation code defined in the Florida Building Code, Plumbing Volume, Appendix F. Local governments shall use the standards and guidelines when developing landscape irrigation and xeriscape ordinances. *By January 1, 2011* ~~Every 5 years~~, the agencies and entities specified in this subsection shall review the standards and guidelines to determine whether new research findings require a change or modification of the standards and guidelines.

Section 14. Paragraph (d) of subsection (1) of section 376.303, Florida Statutes, is amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(1) The department has the power and the duty to:

(d) Establish a registration program for drycleaning facilities and wholesale supply facilities.

1. Owners or operators of drycleaning facilities and wholesale supply facilities and real property owners shall jointly register each facility owned and in operation with the department by June 30, 1995, pay initial registration fees by December 31, 1995, and pay annual renewal registration fees by December 31, 1996, and each year thereafter, in accordance with this subsection. If the registration form cannot be jointly submitted, then the applicant shall provide notice of the registration to other interested parties. The department shall establish reasonable requirements for the registration of such facilities. The department shall use reasonable efforts to identify and notify drycleaning facilities and wholesale supply facilities of the registration requirements by certified mail, return receipt requested. The department shall provide to the Department of Revenue a copy of each applicant's registration materials, within 30 working days of the receipt of the materials. This copy may be in such electronic format as the two agencies mutually designate.

2.a. The department shall issue an invoice for annual registration fees to each registered drycleaning facility or wholesale supply facility by December 31 of each year. Owners of drycleaning facilities and wholesale supply facilities shall submit to the department an initial fee of $100 and an annual renewal registration fee of $100 for each drycleaning facility or wholesale supply facility owned and in operation. The fee shall

be paid within 30 days after receipt of billing by the department. Facilities that fail to pay their renewal fee within 30 days after receipt of billing are subject to a late fee of $75.

b. Revenues derived from registration, renewal, and late fees shall be deposited into the Water Quality Assurance Trust Fund to be used as provided in s. 376.3078.

*3. Effective March 1, 2009, a registered drycleaning facility shall display in the vicinity of its drycleaning machines the original or a copy of a valid and current certificate evidencing registration with the department pursuant to this paragraph. After that date, a person may not sell or transfer any drycleaning solvents to an owner or operator of a drycleaning facility unless the owner or operator of the drycleaning facility displays the certificate issued by the department. Violators of this subparagraph are subject to the remedies available to the department pursuant to s. 376.302.*

Section 15. Subsection (19) of section 403.031, Florida Statutes, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(19) "Regulated air pollutant" means *any pollutant regulated under the federal Clean Air Act.*~~:~~

~~(a) Nitrogen oxides or any volatile organic compound;~~

~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or s. 7412; or~~

~~(c) Any pollutant for which a national primary ambient air quality standard has been adopted.~~

Section 16. Section 403.0623, Florida Statutes, is amended to read:

403.0623 Environmental data; quality assurance.—The department must establish, by rule, appropriate quality assurance requirements for environmental data submitted to the department and the criteria by which environmental data may be rejected by the department. *The department may adopt and enforce rules to establish data quality objectives and specify requirements for training of laboratory and field staff, sample collection methodology, proficiency testing, and audits of laboratory and field sampling activities.* Such rules may be in addition to any laboratory certification provisions under ss. 403.0625 and 403.863.

Section 17. Subsection (1) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail.

(1) For purposes of this section, a major source of air pollution means a stationary source of air pollution, or any group of stationary sources within a contiguous area and under common control, which emits any regulated air pollutant and which is ~~any of the following~~:

(a) A major source within the meaning of 42 U.S.C. s. 7412(a)(1);

(b) A major stationary source or major emitting facility within the meaning of 42 U.S.C. s. 7602(j) or 42 U.S.C. subchapter I, part C or part D;

(c) An affected source within the meaning of 42 U.S.C. s. 7651a(1);

(d) An air pollution source subject to standards or regulations under 42 U.S.C. s. 7411 or s. 7412; provided that a source is not a major source solely because of its regulation under 42 U.S.C. s. 7412(r); or

(e) A stationary air pollution source belonging to a category designated as a 40 C.F.R. part 70 source by regulations adopted by the administrator of the United States Environmental Protection Agency under 42 U.S.C. ss. 7661 et seq. The department shall exempt those facilities that are subject to this section solely because they are subject to requirements under 42 U.S.C. s. 7411 *or s. 7412* or solely because they are subject to reporting requirements under 42 U.S.C. s. 7412 for as long as the exemption is available under federal law.

Section 18. Section 373.109, Florida Statutes, is amended to read:

373.109 Permit application fees.—When a water management district governing board, the department, or a local government implements a regulatory system under this chapter or one which has been delegated pursuant to chapter 403, it may establish a schedule of fees for filing applications for the required permits. Such fees shall not exceed the cost to the district, the department, or the local government for processing, monitoring, and inspecting for compliance with the permit.

*(1)(a) The department shall initiate rulemaking no later than December 1, 2008, to increase each application fee authorized under part IV of this chapter and adopted by rule to ensure that such fees reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised. The department shall establish by rule the inflation index to be used for this purpose.*

*(b) The department shall charge a fee of at least $250 for a noticed general permit or individual permit as established in department rules.*

*(c) Notwithstanding s. 120.60(2), the fee for verification that an activity is exempt from regulation under s. 403.813 or part IV of this chapter shall be at least $100 or as otherwise established by department rule, but not to exceed $500.*

*(d) The department shall charge a fee of at least $100 and not to exceed $500 for conducting informal wetland boundary determinations as a public service to applicants or potential applicants for permits under part IV of this chapter. An informal wetland boundary determination is not an application for a permit, is not subject to the permit review timeframes established in this chapter or chapter 120, and does not constitute final agency action.*

*(2) The department shall review the fees authorized under part IV of this chapter at least once every 5 years and shall adjust the fees upward, as necessary, to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations.*

*(3)*~~(1)~~ All moneys received under the provisions of this section shall be allocated for the use of the water management district, the department, or the local government, whichever processed the permit, and shall be in addition to moneys otherwise appropriated in any general appropriation act. All moneys received by the department under the provisions of this section shall be deposited in the Florida Permit Fee Trust Fund established by s. 403.0871 and shall be used by the department as provided therein. Moneys received by a water management district or the department under the provisions of this section shall be in addition to moneys otherwise appropriated in any general appropriation act.

*(4)*~~(2)~~ The failure of any person to pay the fees established hereunder constitutes grounds for revocation or denial of the permit.

*(5) Effective July 1, 2008, the minimum fee amounts shall be the minimum fees prescribed in this section, and such fee amounts shall remain in effect until the effective date of fees adopted by rule by the department.*

Section 19. Section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(1) A stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be issued for a term of more than 10 years, nor may an operation permit issued after July 1, 1992, for a major source of air pollution have a fixed term of more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this chapter and the rules of the department.

(2) The department shall adopt, and may amend or repeal, rules for the issuance, denial, modification, and revocation of permits under this section.

(3) A renewal of an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System (NPDES) Program under s. 403.0885 must be issued upon request for a term of up to 10 years, for the same fee and under the same conditions as a 5-year permit, in order to provide the owner or operator with a financial incentive, if:

(a) The waters from the treatment facility are not discharged to Class I municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control Program under chapter 62-528 of the Florida Administrative Code;

(b) The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by the United States Environmental Protection Agency, the department, or a local program approved under s. 403.182;

(c) The treatment facility has operated under an operation permit for 5 years and, for at least the preceding 2 years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;

(d) The department has reviewed the discharge-monitoring reports required under department rule and is satisfied that the reports are accurate;

(e) The treatment facility has generally met water quality standards in the preceding 2 years, except for violations attributable to events beyond the control of the treatment plant or its operator, such as destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur; and

(f) The department, or a local program approved under s. 403.182, has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.

The department shall keep records of the number of 10-year permits applied for and the number and duration of permits issued for longer than 5 years.

(4) The department shall issue permits on such conditions as are necessary to effect the intent and purposes of this section.

(5) The department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department, except as provided in s. 403.088 or s. 403.0872. However, separate construction permits shall not be required for installations permitted under s. 403.0885, except that the department may require an owner or operator proposing to construct, expand, or modify such an installation to submit for department review, as part of application for permit or permit modification, engineering plans, preliminary design reports, or other information 90 days prior to commencing construction. The department may also require the engineer of record or another registered professional engineer, within 30 days after construction is complete, to certify that the construction was completed in accordance with the plans submitted to the department, noting minor deviations which were necessary because of site-specific conditions.

(6)(a) The department shall require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for a permit or request for site-specific alternative criteria or for an exemption from water quality criteria and to cover the costs of surveillance and other field services and related support activities associated with any permit or plan approval issued pursuant to this chapter. *The department shall review the fees authorized under this chapter at least once every 5 years and shall adjust the fees upward, as necessary, within the fee caps established in this paragraph to reflect changes in the Consumer Price Index or similar inflation indicator. The department shall establish by rule the inflation index to be used for this purpose. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations.* However, when an application is received without the required fee, the department shall acknowledge receipt of the application and shall immediately return the unprocessed application to the applicant and shall take no further action until the application is received with the appropriate fee. The department shall adopt a schedule of fees by rule, subject to the following limitations:

1. The fee for any of the following may not exceed $32,500:

a. Hazardous waste, construction permit.

b. Hazardous waste, operation permit.

c. Hazardous waste, postclosure permit, or clean closure plan approval.

d. Hazardous waste, corrective action permit.

*2. The permit fee for a drinking water construction or operation permit, not including the operation license fee required under s. 403.861(7), shall be at least $500 and may not exceed $15,000.*

*3.*~~2.~~ The permit fee for a Class I injection well construction permit may not exceed $12,500.

*4.*~~3.~~ The permit fee for any of the following permits may not exceed $10,000:

a. Solid waste, construction permit.

b. Solid waste, operation permit.

c. Class I injection well, operation permit.

*5.*~~4.~~ The permit fee for any of the following permits may not exceed $7,500:

a. Air pollution, construction permit.

b. Solid waste, closure permit.

~~c. Drinking water, construction or operation permit.~~

*c.*~~d.~~ Domestic waste residuals, construction or operation permit.

*d.*~~e.~~ Industrial waste, operation permit.

*e.*~~f.~~ Industrial waste, construction permit.

*6.*~~5.~~ The permit fee for any of the following permits may not exceed $5,000:

a. Domestic waste, operation permit.

b. Domestic waste, construction permit.

*7.*~~6.~~ The permit fee for any of the following permits may not exceed $4,000:

a. Wetlands resource management—(dredge and fill *and mangrove alteration*)~~, standard form permit~~.

b. Hazardous waste, research and development permit.

c. Air pollution, operation permit, for sources not subject to s. 403.0872.

d. Class III injection well, construction, operation, or abandonment permits.

*8. The permit fee for a drinking water distribution system permit, including a general permit, shall be at least $500 and may not exceed $1,000.*

*9.*~~7.~~ The permit fee for Class V injection wells, construction, operation, and abandonment permits may not exceed $750.

*10.*~~8.~~ The permit fee for *domestic waste collection system permits* ~~any of the following permits~~ may not exceed $500:

~~a. Domestic waste, collection system permits.~~

~~b. Wetlands resource management (dredge and fill and mangrove alterations), short permit form.~~

~~c. Drinking water, distribution system permit.~~

*11.*~~9.~~ The permit fee for stormwater operation permits may not exceed $100.

*12.*~~10.~~ *Except as provided in subparagraph 8.,* the general permit fees for permits that require certification by a registered professional engineer or professional geologist may not exceed $500*, and*~~.~~ the general permit fee for other permit types may not exceed $100.

*13.*~~11.~~ The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

*14.*~~12.~~ The regulatory program and surveillance fees for facilities permitted pursuant to s. 403.088 or s. 403.0885, or for facilities permitted pursuant to s. 402 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the department has been granted administrative authority, shall be limited as follows:

a. The fees for domestic wastewater facilities shall not exceed $7,500 annually. The department shall establish a sliding scale of fees based on the permitted capacity and shall ensure smaller domestic waste dischargers do not bear an inordinate share of costs of the program.

b. The annual fees for industrial waste facilities shall not exceed $11,500. The department shall establish a sliding scale of fees based upon the volume, concentration, or nature of the industrial waste discharge and shall ensure smaller industrial waste dischargers do not bear an inordinate share of costs of the program.

c. The department may establish a fee, not to exceed the amounts in subparagraphs 4. and 5., to cover additional costs of review required for permit modification or construction engineering plans.

(b) If substantially similar air pollution sources are to be constructed or modified at the same facility, the applicant may submit a single application and permit fee for construction or modification of the sources at that facility. If substantially similar air pollution sources located at the same facility do not constitute a major source of air pollution subject to permitting under s. 403.0872, the applicant may submit a single application and permit fee for the operation of those sources. The department may develop, by rule, criteria for determining what constitutes substantially similar sources.

(c) The fee schedule shall be adopted by rule. The amount of each fee shall be reasonably related to the costs of permitting, field services, and related support activities for the particular permitting activity taking into consideration consistently applied standard cost-accounting principles and economies of scale. If the department requires, by rule or by permit condition, that a permit be renewed more frequently than once every 5 years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal.

(d) Nothing in this subsection authorizes the construction or expansion of any stationary installation except to the extent specifically authorized by department permit or rule.

(e) For all domestic waste collection system permits and drinking water distribution system permits, the department shall adopt a fee schedule, by rule, based on a sliding scale relating to pipe diameter, length of the proposed main, or equivalent dwelling units, or any combination of these factors. The department shall require a separate permit application and fee for each noncontiguous project within the system.

(7) A permit issued pursuant to this section shall not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder:

(a) Has submitted false or inaccurate information in his or her application;

(b) Has violated law, department orders, rules, or regulations, or permit conditions;

(c) Has failed to submit operational reports or other information required by department rule or regulation; or

(d) Has refused lawful inspection under s. 403.091.

(8) The department shall not issue a permit to any person for the purpose of engaging in, or attempting to engage in, any activity relating to the extraction of solid minerals not exempt pursuant to chapter 211 within any state or national park or state or national forest when the activity will degrade the ambient quality of the waters of the state or the ambient air within those areas. In the event the Federal Government prohibits the mining or leasing of solid minerals on federal park or forest lands, then, and to the extent of such prohibition, this act shall not apply to those federal lands.

(9) A violation of this section is punishable as provided in this chapter.

*(10) Effective July 1, 2008, the minimum fee amounts shall be the minimum fees prescribed in this section, and such fee amounts shall remain in effect until the effective date of fees adopted by rule by the department.*

Section 20. Subsections (7) and (8) of section 403.861, Florida Statutes, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(7) Issue permits for constructing, altering, extending, or operating a public water system, based upon the size of the system, type of treatment provided by the system, or population served by the system*, including issuance of an annual operation license*.

*(a)* The department may issue a permit for a public water system based upon review of a preliminary design report or plans and specifications*,* ~~and~~ a completed permit application form*,* and other required information as set forth in department rule*, including receipt of an appropriate fee. The department may*

~~(8)~~ require a fee in an amount sufficient to cover the costs of viewing and acting upon any application for the construction and operation of a public water supply system and the costs of surveillance and other field services associated with any permit issued, but the amount in no case shall exceed *$15,000* ~~$7,500~~. The fee schedule shall be adopted by rule based on a sliding scale relating to the size, type of treatment, or population served by the system that is proposed by the applicant.

*(b) Each public water system that operates in this state shall submit annually to the department an operation license fee, separate from and in addition to any permit application fees required under paragraph (a), in an amount established by department rule. The amount of each fee shall be reasonably related to the size of the public water system, type of treatment, population served, amount of source water used, or any combination of these factors, but the fee may not be less than $50 or greater than $7,500. Public water systems shall pay annual operation license fees at a time and in a manner prescribed by department rule.*

*(8) Initiate rulemaking no later than July 1, 2008, to increase each drinking water permit application fee authorized under s. 403.087(6) and this part and adopted by rule to ensure that such fees are increased to*

*reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.*

*(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(6) and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.*

*(b) Effective July 1, 2008, the minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.*

Section 21. Section 403.873, Florida Statutes, is amended to read:

403.873 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application*, proof of completion of department-approved continuing education units during the current biennium,* and *the renewal* fee*,* and in accordance with the other provisions of ss. 403.865-403.876.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses*, including the requirements for continuing education*.

Section 22. Section 403.874, Florida Statutes, is amended to read:

403.874 Inactive status.—

(1) The department shall reactivate an inactive license upon receipt of the reactivation application and fee *within the 2-year period immediately following the expiration date of the license. Any license not reactivated within this 2-year period shall be null and void and an operator seeking a license thereafter must meet the training, examination, and experience requirements for the type and class or level of license sought*.

(2) The department shall adopt rules relating to licenses that have become inactive and for the reactivation of inactive licenses*, and procedures for null and void licenses and how to obtain a new license after a license has become null and void*.

Section 23. *The Department of Environmental Protection may not issue any permit for a Class I landfill that will be located on or adjacent to a Class III landfill that was permitted on or before January 1, 2006, and that is located in the Southern Water Use Caution Area designated by rule by the Southwest Florida Water Management District. This section applies to all applications for any Class I landfill permit submitted after January 1, 2006, for which the department has not issued a final permit.*

Section 24. *Section 378.011, Florida Statutes, is repealed.*

Section 25. *Chapter 325, Florida Statutes, consisting of ss. 325.2055, 325.221, 325.222, and 325.223, Florida Statutes, is repealed.*

Section 26. *Section 403.08725, Florida Statutes, is repealed.*

Section 27. 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 environmental protection; reenacting and amending s. 20.255, F.S., relating to the establishment of the department; renaming the Office of Legislative and Government Affairs as the "Office of Legislative Affairs"; creating the Office of Intergovernmental Programs within the department; renaming the Division of Resource Assessment and Management as the "Division of Environmental Assessment and Restoration"; authorizing the Environmental Regulation Commission to employ independent counsel and contract for outside technical consultants; amending s. 211.3103, F.S., relating to the tax on the severance of phosphate rock; deleting obsolete provisions; providing for a surcharge to be levied per ton severed until a specified amount of revenue is generated; providing for an adjustment in the surcharge under certain conditions; providing for the distribution of all taxes, interest, and penalties collected from the severance of phosphate rock; providing for the use of such revenues by certain counties; defining the term "phosphate-related expenses" for purposes of the act; amending s. 253.002, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to delegate certain duties regarding submerged lands to the Fish and Wildlife Conservation Commission; amending s. 373.414, F.S.; exempting certain lands added to a conceptual reclamation plan from rules governing activities in surface waters and wetlands; amending s. 378.205, F.S.; providing that administrative challenges to state agency action regarding phosphate mines and reclamation are subject to summary hearings; amending s. 369.20, F.S.; providing for the Fish and Wildlife Conservation Commission rather than the Department of Environmental Protection to direct the control, eradication, and regulation of noxious aquatic weeds; requiring the commission to adopt rules; authorizing the commission to collect aquatic plants, quarantine or confiscate noxious aquatic plant material, and conduct a public information program; amending s. 369.22, F.S.; revising a short title; revising definitions; providing duties of the Fish and Wildlife Conservation Commission with respect to supervising and directing all management programs for aquatic plants; authorizing the commission to delegate its authority and disburse funds; requiring the commission to post a report on its website; providing for the commission to adopt rules for issuing permits for the control, eradication, and removal of aquatic plants; amending ss. 369.25 and 369.251, F.S.; providing for the Department of Agriculture and Consumer Services rather than the Department of Environmental Protection to regulate the importation, transport, cultivation, and possession of certain aquatic plants and invasive nonnative plants; authorizing the Department of Agriculture and Consumer Services to adopt rules; providing duties of the department; amending s. 369.252, F.S.; requiring the Fish and Wildlife Conservation Commission to establish a program to control invasive plants on public lands; revising requirements for the use of funds in the Invasive Plant Control Trust Fund; amending s. 206.606, F.S.; providing for the distribution of certain proceeds from the fuel tax by the Fish and Wildlife Conservation Commission; amending s. 328.76, F.S., relating to funds transferred to the Invasive Plant Control Trust Fund; conforming provisions to changes made by the act; amending s. 373.228, F.S.; requiring that certain entities review the standards and guidelines for landscape irrigation and xeriscape ordinances by a date certain; amending s. 376.303, F.S.; requiring a drycleaning facility to display a current and valid certificate of registration issued by the Department of Environmental Protection; prohibiting the sale or transfer of drycleaning solvents after a certain date to owners or operators of drycleaning facilities unless a registration certificate is displayed; providing penalties; amending s. 403.031, F.S.; conforming the definition of the term "regulated air pollutant" to changes made in the federal Clean Air Act; amending s. 403.0623, F.S.; providing rulemaking authority for biological sampling techniques; amending s. 403.0872, F.S.; conforming the requirements for air operation permits to changes made to Title V of the Clean Air Act to delete certain minor sources from the Title V permitting requirements; amending s. 373.109, F.S.; requiring the department to initiate rulemaking by a date certain to adjust permit fees; providing for fees to be imposed for verifying that certain activities are exempt from regulation; providing for a fee for conducting informal wetland boundary determinations; specifying special conditions that apply to such determinations; amending s. 403.087, F.S.; providing minimum and maximum amounts for certain fees relating to wastewater treatment facilities; amending s. 403.861, F.S.; providing for a public water system application fee; requiring the department to adopt rules for periodically adjusting the application fee; amending s. 403.873, F.S.; providing rulemaking authority for continuing education requirements for water utility operators; amending s. 403.874, F.S.; providing for the reinstatement of certain water utility operator certifications; prohibiting the Department of Environmental Protection from issuing a permit for a Class I landfill located in a specified water use caution area designated by rule; repealing s. 378.011, F.S., relating to the Land Use Advisory Committee; repealing ch. 325, F.S., consisting of ss. 325.2055, 325.221, 325.222, and 325.223, F.S., relating to motor vehicle air conditioning refrigerants; repealing s. 403.08725, F.S., relating to citrus juice processing facilities; providing an effective date.

The Conference Committee Report was read and on motion by Senator Alexander was adopted. **CS for CS for SB 1294** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—36

| | | |
|---|---|---|
| Mr. President | Fasano | Margolis |
| Alexander | Gaetz | Oelrich |
| Atwater | Garcia | Peaden |
| Baker | Geller | Posey |
| Bennett | Haridopolos | Rich |
| Bullard | Hill | Ring |
| Carlton | Jones | Saunders |
| Constantine | Joyner | Siplin |
| Crist | Justice | Storms |
| Dean | King | Villalobos |
| Deutch | Lawson | Webster |
| Diaz de la Portilla | Lynn | Wise |

Nays—1

Dockery

Vote after roll call:

Yea to Nay—Haridopolos

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for CS for SB 1702**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for CS for SB 1702, same being:

An act relating to **Department of Agriculture and Consumer Services**; reenacting various provisions relating to the Division of Administration, Agricultural Environmental Services, Animal Industry, Aquaculture, Dairy Industry, Food Safety, Forestry, Fruit and Vegetables, Marketing and Development, and Plant Industry of the Department of Agriculture and Consumer Services, increasing the annual license tax imposed on wholesale and retail saltwater products dealers, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 447421;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 416828 to CS for CS for SB 1702 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (416828)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. *Subsection (2) of section 20.14, Florida Statutes, is reenacted.*

Section 2. Subsection (1) of section 125.27, Florida Statutes, is amended to read:

125.27 Countywide forest fire protection; authority of the Division of Forestry; state funding; county fire control assessments; disposition; equipment donations.—

(1) The Division of Forestry of the Department of Agriculture and Consumer Services and the board of county commissioners of each county in this state shall enter into agreements for the establishment and maintenance of countywide fire protection of all forest and wild

lands within said county, with the total cost of such fire protection being funded by state and federal funds. Each county shall, under the terms of such agreements, be assessed each fiscal year, as its share of the cost of providing such fire protection, a sum in dollars equal to the total forest and wild land acreage of the county, as determined by the Division of Forestry, multiplied by *7* ~~3~~ cents. The forest and wild lands acreage included in such agreements shall be reviewed each year by the contracting parties and the number of forest and wild land acres and the annual fire control assessment adjusted so as to reflect the current forest acreage of the county. In the event the division and the county commissioners do not agree, the Board of Trustees of the Internal Improvement Trust Fund shall make such acreage determination. All fire control assessments received by the Division of Forestry from the several counties under agreements made pursuant to this section shall be deposited *as follows:*

*(a) An amount equal to the total forest land and wild land acreage of the counties, multiplied by 4 cents, shall be distributed to the Incidental Trust Fund of the Division of Forestry; and*

*(b) An amount equal to the total forest land and wild land acreage of the counties, multiplied by 3 cents, shall be distributed to* ~~into~~ the General Revenue Fund.

Section 3. Effective October 1, 2008, subsection (2) of section 370.07, Florida Statutes, is amended to read:

370.07 Wholesale and retail saltwater products dealers; regulation.—

(2) LICENSES; AMOUNT, TRUST FUND.—

(a) A resident wholesale county seafood dealer is required to pay an annual license tax of *$400* ~~$300~~.

(b) A resident wholesale state dealer is required to pay an annual license tax of *$550* ~~$450~~.

(c) A nonresident wholesale county dealer is required to pay an annual license tax of *$600* ~~$500~~.

(d) A nonresident wholesale state dealer is required to pay an annual license tax of *$1,100* ~~$1,000~~.

(e) An alien wholesale county dealer is required to pay an annual license tax of *$1,100* ~~$1,000~~.

(f) An alien wholesale state dealer is required to pay an annual license tax of *$1,600* ~~$1,500~~.

(g) A resident retail dealer is required to pay an annual license tax of *$75* ~~$25~~; however, if such a dealer has more than one place of business, the dealer shall designate one place of business as a central place of business, shall pay an annual license tax of *$75* ~~$25~~ for such place of business, and shall pay an annual license tax of *$25* ~~$10~~ for each other place of business.

(h) A nonresident retail dealer is required to pay an annual license tax of *$250* ~~$200~~; however, if such a dealer has more than one place of business, the dealer shall designate one place of business as a central place of business, shall pay an annual license tax of *$250* ~~$200~~ for such place of business, and shall pay an annual license tax of *$40* ~~$25~~ for each other place of business.

(i) An alien retail dealer is required to pay an annual license tax of *$300* ~~$250~~; however, if such a dealer has more than one place of business, the dealer shall designate one place of business as a central place of business, shall pay an annual license tax of *$300* ~~$250~~ for such place of business, and shall pay an annual license tax of *$65* ~~$50~~ for each other place of business.

(j) License or privilege taxes, together with any other funds derived from the Federal Government or from any other source, shall be deposited in a Florida Saltwater Products Promotion Trust Fund to be administered by the Department of Agriculture and Consumer Services for the sole purpose of promoting all fish and saltwater products produced in this state, except that 4 percent of the total wholesale and retail saltwater products dealer's license fees collected shall be deposited into the Marine Resources Conservation Trust Fund administered by the Fish and Wildlife Conservation Commission for the purpose of processing wholesale and retail saltwater products dealer's licenses.

Section 4. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 487.041, Florida Statutes, are amended to read:

487.041 Registration.—

(1)

(b) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this part, each person shall pay an annual registration fee of *$350* ~~$250~~ for each registered brand of pesticide. The annual registration fee for each special local need label and experimental use permit is $100. All registrations expire on December 31 of each year. If the renewal of a brand of pesticide, including the special local need label and experimental use permit, is not filed by January 31 of the renewal year, an additional fee of $25 per brand of pesticide shall be assessed per month and added to the original fee. This additional fee may not exceed $250 per brand of pesticide. The additional fee must be paid by the registrant before the renewal certificate for the registration of the brand of pesticide is issued.

(2)

(c) Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a fee of *$700* ~~$500~~ per brand of pesticide and a fee of $200 for each special local need label and experimental use permit, and the registration shall expire on December 31 of the following year. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a fee of *$350* ~~$250~~ per brand of pesticide and fee of $100 for each special local need label and experimental use permit, and the registration shall expire on December 31 of that year.

Section 5. Paragraph (b) of subsection (1) of section 500.12, Florida Statutes, is amended to read:

500.12 Food permits; building permits.—

(1)

(b) An application for a food permit from the department must be accompanied by a fee in an amount determined by department rule, which may not exceed *$650* ~~$500~~ and shall be used solely for the recovery of costs for the services provided, except that the fee accompanying an application for a food permit for operating a bottled water plant may not exceed $1,000 and the fee accompanying an application for a food permit for operating a packaged ice plant may not exceed $250. The fee for operating a bottled water plant or a packaged ice plant shall be set by rule of the department. Food permits must be renewed annually on or before January 1. If an application for renewal of a food permit is not received by the department within 30 days after its due date, a late fee, in an amount not exceeding $100, must be paid in addition to the food permit fee before the department may issue the food permit. The moneys collected shall be deposited in the General Inspection Trust Fund.

Section 6. Subsection (3) of section 559.928, Florida Statutes, is amended to read:

559.928 Registration.—

(3) Each independent agent shall annually file an affidavit with the department prior to engaging in business in this state. This affidavit must include the independent agent's full name, legal business or trade name, mailing address, business address, telephone number, social security number, and the name or names and addresses of each seller of travel represented by the independent agent. A letter evidencing proof of filing must be issued by the department and must be prominently displayed in the independent agent's primary place of business. *Each independent agent must also submit an annual registration fee of $50. All moneys collected pursuant to the imposition of the fee shall be deposited by the Chief Financial Officer into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services for the sole purpose of administrating this part.* As used in this subsection, the term "independent agent" means a person who represents a seller of travel by soliciting persons on its behalf; who has a written contract with a seller of travel which is operating in compliance with this part and any rules adopted thereunder; who does not receive a fee, commission, or other

valuable consideration directly from the purchaser for the seller of travel; who does not at any time have any unissued ticket stock or travel documents in his or her possession; and who does not have the ability to issue tickets, vacation certificates, or any other travel document. The term "independent agent" does not include an affiliate of the seller of travel, as that term is used in s. 559.935(3), or the employees of the seller of travel or of such affiliates.

Section 7. Subsection (1) of section 576.041, Florida Statutes, is amended to read:

576.041 Inspection fees; records; bond.—

(1) Every licensee shall pay to the department an inspection fee in the amount of *$1* ~~75 cents~~ per ton for fertilizer sold in the state, except raw ground phosphate rock, soft phosphate, colloidal phosphate, phosphatic clays and all other untreated phosphatic materials, gypsum, hydrated lime, limestone, and dolomite when sold or used for agricultural purposes, on which the inspection fee shall be 30 cents per ton. All fees paid to the department under this section shall be deposited into the State Treasury to be placed in the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.

Section 8. Paragraph (b) of subsection (1) of section 580.041, Florida Statutes, is amended to read:

580.041 Master registration; fee; refusal or cancellation of registration.—

(1)

(b) The registration form shall be accompanied by a fee that shall be based on tons of feed distributed in this state during the previous year. If a distributor has been in business less than 1 year, the tonnage shall be estimated by the distributor for the first year and based on actual tonnage thereafter. These fees shall be as follows:

| SALES IN TONS | FEE |
|---|---|
| Zero, up to and including 25 | *$40* ~~$25~~ |
| More than 25, up to and including 50 | *$75* ~~$50~~ |
| More than 50, up to and including 100 | *$150* ~~$100~~ |
| More than 100, up to and including 300 | *$375* ~~$300~~ |
| More than 300, up to and including 600 | *$600* ~~$500~~ |
| More than 600, up to and including 1,000 | *$900* ~~$750~~ |
| More than 1,000, up to and including 2,000 | *$1,250* ~~$1,000~~ |
| More than 2,000, up to and including 5,000 | *$2,000* ~~$1,500~~ |
| More than 5,000 | *$3,500* ~~$2,500~~ |

Section 9. Paragraph (h) of subsection (1) of section 597.004, Florida Statutes, is amended to read:

597.004 Aquaculture certificate of registration.—

(1) CERTIFICATION.—Any person engaging in aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department:

(h) *One-hundred* ~~Fifty~~ dollar annual registration fee.

Section 10. Paragraph (e) of subsection (3) of section 601.15, Florida Statutes, is amended to read:

601.15 Advertising campaign; methods of conducting; excise tax; emergency reserve fund; citrus research.—

(3)

(e) The commission, upon an affirmative vote of a majority of its members and by an order entered by it prior to *November* ~~August~~ 1 of any year, may set the tax rates up to the maximum rates specified in this subsection ~~if the commission determines that the specified tax rate will result in collection of funds, during the ensuing citrus season, which exceed projected needs, including all legal obligations~~. The tax rate shall apply only to the citrus season which *began on August 1 of the same calendar year* ~~immediately follows entry of the order setting the rate~~. Such tax rate may be applied by variety and on the basis of whether the fruit enters the primary channel of trade for use in fresh or processed form. If the commission cannot agree on a box tax rate, the tax rate for the previous year shall remain in effect until the commission approves a new rate.

Section 11. Section 570.191, Florida Statutes, is amended to read:

570.191 Agricultural Emergency Eradication Trust Fund.—There is created in the office of the commissioner the Agricultural Emergency Eradication Trust Fund. Funds in the trust fund may be made available *for the promotion, advancement, and protection of agriculture in this state, including maintaining or increasing market share and suppressing or eradicating wildfire, animal or plant disease, insect infestation, or a plant or pest that endangers or threatens agriculture* ~~upon certification by the commissioner that an agricultural emergency exists and that funds specifically appropriated for the emergency's purpose are exhausted or insufficient to eliminate the agricultural emergency~~. ~~The term "agricultural emergency" means an animal or plant disease, insect infestation, or plant or pest endangering or threatening the horticultural, aquacultural, or other agricultural interests in this state.~~

Section 12. *Section 570.1911, Florida Statutes, is repealed.*

Section 13. *Section 585.105, Florida Statutes, is repealed.*

Section 14. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to agriculture; reenacting s. 20.14(2), F.S., relating to the Department of Agriculture and Consumer Services; amending s. 125.27, F.S.; increasing the annual countywide fire control assessment; requiring that certain portions of the assessment be distributed into the Incidental Trust Fund of the Division of Forestry and the General Revenue Fund; amending s. 370.07, F.S.; increasing the annual license tax imposed on wholesale and retail saltwater products dealers; amending s. 487.041, F.S.; increasing the registration fee imposed on each brand of pesticide that is distributed, sold, or offered for sale; amending s. 500.12, F.S.; increasing the maximum amount allowed for a food permit application fee; amending s. 559.928, F.S.; requiring that independent agents pay an annual registration fee; specifying an amount for such fee; providing for the deposit and use of moneys obtained from the collection of such fee; amending s. 576.041, F.S.; increasing the fertilizer inspection fee; amending s. 580.041, F.S.; increasing the master registration fees imposed on commercial feed distributors; amending s. 597.004, F.S.; increasing the registration fee for aquaculture certification; amending s. 601.15, F.S.; revising the deadline by which the Florida Citrus Commission sets the annual citrus excise tax rate; deleting a provision requiring the commission to consider certain projected collection of taxes in setting the rate; conforming provisions relating to the season upon which the tax rate applies; amending s. 570.191, F.S.; providing for money in the Agricultural Emergency Eradication Trust Fund to be made available under certain circumstances for specified additional purposes; repealing s. 570.1911, F.S., relating to notice of certification of an agricultural emergency; repealing s. 585.105, F.S., relating to the purchase, distribution, and administration of approved brucella vaccine by the department; providing effective dates.

The Conference Committee Report was read and on motion by Senator Alexander was adopted. **CS for CS for SB 1702** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—37

| | | |
|---|---|---|
| Mr. President | Carlton | Dockery |
| Alexander | Constantine | Fasano |
| Atwater | Crist | Gaetz |
| Baker | Dean | Garcia |
| Bennett | Deutch | Geller |
| Bullard | Diaz de la Portilla | Haridopolos |

Hill
Jones
Joyner
Justice
King
Lawson
Lynn
Margolis
Oelrich
Peaden
Posey
Rich
Ring
Saunders
Siplin
Storms
Villalobos
Webster
Wise

Nays—None

---

By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1774**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1774, same being:

An act relating to **Postsecondary Education**; revising provisions relating to workforce education postsecondary student fees, specifying the out-of-state fee per credit hour, authorizing district school boards and community boards of trustees to adopt an out-of-state fee within a specified range, requiring that such fees be used to enhance instructional technology resources, requiring the first accredited medical school to enter into an annual agreement with a government-owned hospital meeting specified criteria;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 578617;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 138116 to CS for SB 1774 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*
*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (138116)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (c), (d), and (e) of subsection (3) of section 1009.22, Florida Statutes, as amended by chapter 2007-329, Laws of Florida, are amended to read:

1009.22 Workforce education postsecondary student fees.—

(3)

(c) Effective January 1, 2008, standard ~~resident~~ tuition shall be $1.67 per contact hour for programs leading to a career certificate or an applied technology diploma and 83 cents for adult general education programs. *The out-of-state fee per contact hour shall be three times the standard tuition per contact hour.*

(d) Beginning with the 2008-2009 fiscal year and each year thereafter, the ~~standard resident~~ tuition *and the out-of-state fee* per contact hour shall increase at the beginning of each fall semester at a rate equal to inflation, unless otherwise provided in the General Appropriations Act. The Office of Economic and Demographic Research shall report the rate of inflation to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the State Board of Education each year prior to March 1. For purposes of this paragraph, the rate of inflation shall be defined as the rate of the 12-month percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor for December of the previous year. In the event the percentage change is negative, the ~~standard resident~~ tuition *and out-of-state fee* shall remain at the same level as the prior fiscal year.

(e) Each district school board and each community college board of trustees may adopt ~~resident~~ tuition *and out-of-state fees* that *may vary no more than* ~~is within the range of~~ 5 percent below *and* ~~to~~ 5 percent

above the *combined total of the* standard tuition *and out-of-state fees established in paragraph (c)*.

Section 2. Effective July 1, 2009, and applicable beginning with the fall term of the 2009-2010 academic year, subsection (7) of section 1009.22, Florida Statutes, as amended by chapter 2007-329, Laws of Florida, is amended to read:

1009.22 Workforce education postsecondary student fees.—

(7) Each district school board and community college board of trustees is authorized to establish a separate fee for technology, not to exceed *5 percent of tuition* ~~$1.80~~ per credit hour or credit-hour equivalent for resident students and *not to exceed 5 percent of tuition and the out-of-state fee* ~~not more than $5.40~~ per credit hour or credit-hour equivalent for nonresident students~~, or the equivalent, to be expended in accordance with technology improvement plans~~. *Revenues generated from the technology fee shall be used to enhance instructional technology resources for students and faculty and shall not be included in any award under the Florida Bright Futures Scholarship Program.* ~~The technology fee may apply only to associate degree programs and courses.~~ Fifty percent of technology 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, not to exceed the useful life of the asset being financed. Revenues generated from the technology fee may not be bonded.

Section 3. Paragraph (a) of subsection (3), subsection (7), and paragraphs (a) and (c) of subsection (8) of section 1009.23, Florida Statutes, as amended by chapter 2007-329, Laws of Florida, are amended to read:

1009.23 Community college student fees.—

(3)(a) Effective January 1, 2008, for advanced and professional, postsecondary vocational, college preparatory, and educator preparation institute programs, the following tuition and fee rates shall apply:

1. The sum of the standard tuition and the technology fee shall be $51.35 per credit hour for students who are residents for tuition purposes.

2. The sum of the standard tuition *and*~~,~~ the technology fee *shall be $51.35 per credit hour*~~,~~ and the out-of-state fee shall be $154.14 per credit hour for students who are nonresidents for tuition purposes.

(7) Each community college board of trustees may establish a separate activity and service fee not to exceed 10 percent of the tuition fee, according to rules of the State Board of Education. The student activity and service fee shall be collected as a component part of the tuition and fees. The student activity and service fees shall be paid into a student activity and service fund at the community college and shall be expended for lawful purposes to benefit the student body in general. These purposes include, but are not limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the community college without regard to race, sex, or religion. *No community college shall be required to lower any activity and service fee approved by the board of trustees of the community college and in effect prior to October 26, 2007, in order to comply with the provisions of this subsection.*

(8)(a) Each community college board of trustees is authorized to establish a separate fee for financial aid purposes in an additional amount up to, but not to exceed, 5 percent of the total student tuition or out-of-state fees collected. Each community college board of trustees may collect up to an additional 2 percent if the amount generated by the total financial aid fee is less than *$500,000* ~~$250,000~~. If the amount generated is less than *$500,000* ~~$250,000~~, a community college that charges tuition and out-of-state fees at least equal to the average fees established by rule may transfer from the general current fund to the scholarship fund an amount equal to the difference between *$500,000* ~~$250,000~~ and the amount generated by the total financial aid fee assessment. No other transfer from the general current fund to the loan, endowment, or scholarship fund, by whatever name known, is authorized.

(c) Up to 25 percent or *$600,000* ~~$300,000~~, whichever is greater, of the financial aid fees collected may be used to assist students who demonstrate academic merit; who participate in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution; or who are identified as members of a targeted gender or ethnic minority population. The financial aid fee revenues allocated for athletic scholarships and fee exemptions provided pursuant to s. 1009.25(3) for athletes shall be distributed equitably as required by s. 1000.05(3)(d). A minimum of 75 percent of the balance of these funds for new awards shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the boards of trustees. Such other purposes shall include the payment of child care fees for students with financial need. The State Board of Education shall develop criteria for making financial aid awards. Each college shall report annually to the Department of Education on the revenue collected pursuant to this paragraph, the amount carried forward, the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards. The report shall include an assessment by category of the financial need of every student who receives an award, regardless of the purpose for which the award is received. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the State Board of Education. An award for academic merit shall require a minimum overall grade point average of 3.0 on a 4.0 scale or the equivalent for both initial receipt of the award and renewal of the award.

Section 4. Effective July 1, 2009, and applicable beginning with the fall term of the 2009-2010 academic year, subsections (3) and (10) of section 1009.23, Florida Statutes, as amended by chapter 2007-329, Laws of Florida, and as amended by this act, are amended to read:

1009.23 Community college student fees.—

(3)(a) Effective January 1, 2008, for advanced and professional, postsecondary vocational, college preparatory, and educator preparation institute programs, the following tuition and fee rates shall apply:

1. The ~~sum of the~~ standard tuition ~~and the technology fee~~ shall be $51.35 per credit hour for students who are residents for tuition purposes.

2. The ~~sum of the~~ standard tuition ~~and the technology fee~~ shall be $51.35 per credit hour and the out-of-state fee shall be $154.14 per credit hour for students who are nonresidents for tuition purposes.

(b) Effective January 1, 2008, for baccalaureate degree programs, the following tuition and fee rates shall apply:

1. The ~~sum of the~~ tuition ~~and the technology fee~~ shall be $65.47 per credit hour for students who are residents for tuition purposes.

2. The sum of the tuition~~, the technology fee,~~ and the out-of-state fee per credit hour for students who are nonresidents for tuition purposes shall be no more than 85 percent of the sum of the tuition and the out-of-state fee at the state university nearest the community college.

(c) Beginning with the 2008-2009 fiscal year and each year thereafter, the tuition and *the out-of-state fee* ~~fees specified in paragraphs (a) and (b)~~ shall increase at the beginning of each fall semester at a rate equal to inflation, unless otherwise provided in the General Appropriations Act. The Office of Economic and Demographic Research shall report the rate of inflation to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the State Board of Education each year prior to March 1. For purposes of this paragraph, the rate of inflation shall be defined as the rate of the 12-month percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor for December of the previous year. In the event the percentage change is negative, the ~~sum of the~~ tuition and ~~the technology fee per credit hour and~~ the out-of-state fee per credit hour shall remain at the same levels as the prior fiscal year.

(10) Each community college board of trustees is authorized to establish a separate fee for technology, which may not exceed *5 percent of tuition* ~~$1.80~~ per credit hour or credit-hour equivalent for resident students and *may not exceed 5 percent of tuition and the out-of-state fee* ~~not more than $5.40~~ per credit hour or credit-hour equivalent for nonresident students~~, to be expended according to technology improvement plans~~. *Revenues generated from the technology fee shall be used to enhance instructional technology resources for students and faculty.* The technology fee may apply to both college credit and college-preparatory

instruction *and shall not be included in any award under the Florida Bright Futures Scholarship Program*. Fifty percent of technology 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, not to exceed the useful life of the asset being financed. Revenues generated from the technology fee may not be bonded.

Section 5. Subsection (2) of section 1011.52, Florida Statutes, is amended to read:

1011.52 Appropriation to first accredited medical school.—

(2) In order for a medical school to qualify under the provisions of this section and to be entitled to the benefits herein, such medical school:

(a) Must be primarily operated and established to offer, afford, and render a medical education to residents of the state qualifying for admission to such institution;

(b) Must be operated by a municipality or county of this state, or by a nonprofit organization heretofore or hereafter established exclusively for educational purposes;

(c) Must, upon the formation and establishment of an accredited medical school, transmit and file with the Department of Education documentary proof evidencing the facts that such institution has been certified and approved by the council on medical education and hospitals of the American Medical Association and has adequately met the requirements of that council in regard to its administrative facilities, administrative plant, clinical facilities, curriculum, and all other such requirements as may be necessary to qualify with the council as a recognized, approved, and accredited medical school;

(d) Must certify to the Department of Education the name, address, and educational history of each student approved and accepted for enrollment in such institution for the ensuing school year*; and*~~.~~

*(e) Must enter into an annual operating agreement each fiscal year with a government-owned hospital that is located in the same county as the medical school and that is a statutory teaching hospital as defined in s. 408.07(45). The annual operating agreement shall provide for the medical school to maintain the same level of affiliation with the hospital, including the level of services to indigent and charity care patients served by the hospital, which was in place in the prior fiscal year. Documentation of the operating agreement shall be submitted to the Department of Education prior to the payment of moneys from the annual appropriation.*

Section 6. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to postsecondary education; amending s. 1009.22, F.S.; revising provisions relating to workforce education postsecondary student fees; specifying the out-of-state fee per contact hour; authorizing district school boards and community college boards of trustees to adopt an out-of-state fee within a specified range; prohibiting the fee from exceeding a certain percentage of the tuition per credit hour and the out-of-state fee per credit hour; requiring that such fees be used to enhance instructional technology resources; prohibiting the fee from being included in any award under the Florida Bright Futures Scholarship Program; amending s. 1009.23, F.S.; providing an exemption relating to establishment of the community college activity and service student fee; authorizing an increase in the amount of fees collected for financial aid purposes; increasing the amount of financial aid fees that may be used to assist students who meet specified criteria; conforming provisions relating to community college student fees to changes made by the act; amending s. 1011.52, F.S.; requiring the first accredited medical school to enter into an annual operating agreement with a government-owned hospital meeting specified criteria; providing for maintenance of the affiliation; requiring submission of documentation of the agreement to the Department of Education prior to payment from an annual appropriation; providing effective dates.

The Conference Committee Report was read and on motion by Senator Lynn was adopted. **CS for SB 1774** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1788**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1788, same being:

An act relating to **Indigent Civil Defense TF/JAC**; creating the Indigent Civil Defense Trust Fund within the Justice Administrative Commission, providing for the purpose of the trust fund, providing for future review and termination or re-creation of the trust fund;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 537711;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 318610 to CS for SB 1788 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley

*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,* At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,* At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (318610)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. *Indigent Civil Defense Trust Fund.—*

*(1) The Indigent Civil Defense Trust Fund is created within the Justice Administrative Commission. Moneys credited to the trust fund shall be used for the purpose of funding the activities of the offices of criminal conflict and civil regional counsel as provided in s. 27.511, Florida Statutes.*

*(2) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Indigent Civil Defense Trust Fund shall, unless terminated sooner, be terminated on July 1, 2012. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.*

Section 2. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to trust funds; creating the Indigent Civil Defense Trust Fund within the Justice Administrative Commission; providing for the purpose of the trust fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **CS for SB 1788** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1790**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1790, same being:

An act relating to **State Judicial System**; prescribes the types of civil proceedings in which part-time assistant criminal conflict and civil regional counsel may not otherwise engage. Increases the application fee for determining indigent status for the purpose of receiving criminal representation by state-funded counsel. Increases charges for services rendered by the clerk of the circuit court in recording documents and instruments and performing other duties, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 753307;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 668868 to CS for SB 1790 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*
*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
Paula Dockery
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
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*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,* At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,* At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (668868)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (3) of section 25.241, Florida Statutes, is amended to read:

25.241 Clerk of Supreme Court; compensation; assistants; filing fees, etc.—

(3)*(a)* The Clerk of the Supreme Court is hereby required to collect, upon the filing of a certified copy of a notice of appeal or petition, $300 for each case docketed, and for copying, certifying, or furnishing opinions, records, papers, or other instruments, except as otherwise herein provided, the same fees that are allowed clerks of the circuit court; however, no fee shall be less than $1. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fees required in this subsection. From each attorney appearing pro hac vice, the Clerk of the Supreme Court shall collect an additional fee of $100 to be deposited into the General Revenue Fund.

*(b) Upon the filing of a notice of cross-appeal, or a notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, the Clerk of the Supreme Court shall charge and collect a filing fee of $295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund. The state and its agencies are exempt from the filing fee required in this paragraph.*

Section 2. Section 26.57, Florida Statutes, is amended to read:

26.57 Temporary designation of county court judge to preside over circuit court cases.—In each county where there is no resident circuit judge and the county court judge has been a member of the bar for at least 5 years and is qualified to be a circuit judge, the county court judge may be designated on a temporary basis to preside over circuit court cases by the Chief Justice of the Supreme Court upon recommendation of the chief judge of the circuit~~, and the judge so designated shall receive the same salary as a duly elected circuit judge for the time periods that the county judge is actually presiding over circuit court cases~~. He or she may be assigned to exercise all county and circuit court jurisdiction in the county, except appeals from the county court. In addition, he or she may be required to perform the duties of circuit judge in other counties of the circuit as time may permit and as the need arises, as determined by the chief judge of the circuit.

Section 3. Subsections (4) and (8) of section 27.511, Florida Statutes, are amended to read:

27.511 Offices of criminal conflict and civil regional counsel; legislative intent; qualifications; appointment; duties.—

(4)*(a)* Each regional counsel shall serve on a full-time basis and may not engage in the private practice of law while holding office. Assistant regional counsel shall give priority and preference to their duties as assistant regional counsel and may not otherwise engage in the practice of criminal law. *Assistant regional counsel may not engage* ~~or~~ in civil proceedings for which the state compensates attorneys *under s. 27.5304* ~~for representation~~.

*(b) Notwithstanding paragraph (a), part-time assistant regional counsel may practice criminal law for private payment so long as the representation does not result in a legal or ethical conflict of interest with a case for which the office of criminal conflict and civil regional council is providing representation. Assistant regional counsel may not accept criminal cases for reimbursement by the state under s. 27.5304. This paragraph expires June 30, 2010.*

(8) The *public defender for the judicial circuit specified in s. 27.51(4)* ~~office of criminal conflict and civil regional counsel~~ shall*, after the record on appeal is transmitted to the appellate court by the office of criminal conflict and civil regional counsel which handled the trial and if requested by the regional counsel for the indicated appellate district,* handle all circuit court appeals *authorized pursuant to paragraph (5)(f)* within the state courts system and any authorized appeals to the federal courts ~~which are~~ required *of the official making the request* ~~in cases in which the office of criminal conflict and civil regional counsel is appointed under this section~~. *If the public defender certifies to the court that the public defender has a conflict consistent with the criteria prescribed in s. 27.5303 and moves to withdraw, the regional counsel shall handle the appeal, unless the regional counsel has a conflict, in which case the court shall appoint private counsel pursuant to s. 27.40.*

Section 4. Paragraphs (b) and (c) of subsection (1) of section 27.52, Florida Statutes, are amended to read:

27.52 Determination of indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment of a public defender under s. 27.51 based upon an inability to pay must apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.

(b) An applicant shall pay a *$50* ~~$40~~ application fee to the clerk for each application for court-appointed counsel filed. The applicant shall pay the fee within 7 days after submitting the application. If the applicant does not pay the fee prior to the disposition of the case, the clerk shall notify the court, and the court shall:

1. Assess the application fee as part of the sentence or as a condition of probation; or

2. Assess the application fee pursuant to s. 938.29.

(c) Notwithstanding any provision of law, court rule, or administrative order, the clerk shall assign the first *$50* ~~$40~~ of any fees or costs paid by an indigent person as payment of the application fee. A person found to be indigent may not be refused counsel or other required due process services for failure to pay the fee.

Section 5. Section 27.562, Florida Statutes, is amended to read:

27.562 Disposition of funds.—The first *$50* ~~$40~~ of all funds collected pursuant to s. 938.29 shall be deposited into the Indigent Criminal Defense Trust Fund pursuant to s. 27.525 *in satisfaction of the application fee for a determination of indigent status under s. 27.52 if the fee was not paid*. The remaining funds collected pursuant to s. 938.29 shall be distributed as follows:

(1) Twenty-five percent shall be remitted to the Department of Revenue for deposit into the Justice Administrative Commission's Indigent Criminal Defense Trust Fund.

(2) Seventy-five percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

The Justice Administrative Commission shall account for funds deposited into the Indigent Criminal Defense Trust Fund by circuit. Appropriations from the fund shall be proportional to each circuit's collections. All judgments entered pursuant to this part shall be in the name of the state.

Section 6. Section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, guardian ad litem, public guardian, attorney ad litem, criminal conflict and civil regional counsel, and private court-appointed counsel paid by the state, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges

(1) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk, per page . . . . . *5.00* ~~4.50~~

(2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument . . . . . *3.50* ~~3.00~~

(3) For certifying copies of any instrument in the public records . . . . . *2.00* ~~1.50~~

(4) For verifying any instrument presented for certification prepared by someone other than clerk, per page . . . . . *3.50* ~~3.00~~

(5)(a) For making copies by photographic process of any instrument in the public records consisting of pages of not more than 14 inches by 8 1/2 inches, per page . . . . . 1.00

(b) For making copies by photographic process of any instrument in the public records of more than 14 inches by 8 1/2 inches, per page . . . . . 5.00

(6) For making microfilm copies of any public records:

(a) 16 mm 100' microfilm roll . . . . . *42.00* ~~37.50~~

(b) 35 mm 100' microfilm roll . . . . . *60.00* ~~52.50~~

(c) Microfiche, per fiche . . . . . *3.50* ~~3.00~~

(7) For copying any instrument in the public records by other than photographic process, per page . . . . . 6.00

(8) For writing any paper other than herein specifically mentioned, same as for copying, including signing and sealing . . . . . *7.00* ~~6.00~~

(9) For indexing each entry not recorded . . . . . 1.00

(10) For receiving money into the registry of court:

(a)1. First $500, percent . . . . . 3

2. Each subsequent $100, percent . . . . . 1.5

(b) Eminent domain actions, per deposit . . . . . *170.00* ~~150.00~~

(11) For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8 1/2 inches:

(a) First page . . . . . 30.00

(b) Each additional page . . . . . 15.00

(12) For recording, indexing, and filing any instrument not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable:

(a) First page or fraction thereof . . . . . 5.00

(b) Each additional page or fraction thereof . . . . . 4.00

(c) For indexing instruments recorded in the official records which contain more than four names, per additional name . . . . . 1.00

(d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:

1. First page . . . . . 1.00

2. Each additional page . . . . . 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

(e) An additional service charge of $4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional $4 service charge collected:

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information

System, in which system all clerks shall participate on or before January 1, 2006; $1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and $2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, public defender, and criminal conflict and civil regional counsel in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

2. If the state becomes legally responsible for the costs of court-related technology needs as defined in s. 29.008(1)(f)2. and (h), whether by operation of general law or by court order, $4 shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

(13) Oath, administering, attesting, and sealing, not otherwise provided for herein . . . . . *3.50* ~~3.00~~

(14) For validating certificates, any authorized bonds, each . . . . . *3.50* ~~3.00~~

(15) For preparing affidavit of domicile . . . . . 5.00

(16) For exemplified certificates, including signing and sealing . . . . . *7.00* ~~6.00~~

(17) For authenticated certificates, including signing and sealing . . . . . *7.00* ~~6.00~~

(18)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing) . . . . . *7.00* ~~6.00~~

(b) For signing and sealing only . . . . . *2.00* ~~1.50~~

(19) For approving bond . . . . . *8.50* ~~7.50~~

(20) For searching of records, for each year's search . . . . *2.00* ~~1.50~~

(21) For processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds . . . . . 60.00

(22) For disbursement of excess proceeds of tax deed sale, first $100 or fraction thereof . . . . . 10.00

(23) Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy . . . . . 30.00

(24) For solemnizing matrimony . . . . . 30.00

(25) For sealing any court file or expungement of any record . . . . . *42.00* ~~37.50~~

(26)(a) For receiving and disbursing all restitution payments, per payment . . . . . *3.50* ~~3.00~~

(b) For receiving and disbursing all partial payments, other than restitution payments, for which an administrative processing service charge is not imposed pursuant to s. 28.246, per month . . . . . 5.00

(c) For setting up a payment plan, a one-time administrative processing charge in lieu of a per month charge under paragraph (b) . . . . . 25.00

(27) Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.

(28) For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

Section 7. Subsection (1) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges in probate matters.—

(1) Except when otherwise provided, the clerk may impose service charges for the following services, not to exceed the following amounts:

(a) For the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary administration . . . . . *$115* ~~$100~~

(b) Caveat . . . . . *$40* ~~$35~~

(c) Petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record . . . . . *$115* ~~$100~~

(d) For disposition of personal property without administration . . . . . *$115* ~~$100~~

(e) Summary administration—estates valued at $1,000 or more . . . . . *$225* ~~$200~~

(f) Summary administration—estates valued at less than $1,000 . . . . . *$115* ~~$100~~

(g) Formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings . . . . . *$280* ~~$250~~

(h) Guardianship proceedings of person only . . . . . *$115* ~~$100~~

(i) Veterans' guardianship pursuant to chapter 744 . . . . *$115* ~~$100~~

(j) Exemplified certificates . . . . . *$7* ~~$6~~

(k) Petition for determination of incompetency . . . . . *$115* ~~$100~~

Section 8. Subsections (1) and (2) of section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to *$295* ~~$250~~ in all cases in which there are not more than five defendants and an additional filing fee of up to *$2.50* ~~$2~~ for each defendant in excess of five. Of the first *$85* ~~$55~~ in filing fees, *$80* ~~$50~~ must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, and $5 must be remitted to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35. *The next $15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund.* One-third of any filing fees collected by the clerk of the circuit court in excess of *$100* ~~$55~~ shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee of $4 shall be paid to the clerk. The clerk shall remit $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Department of Financial Services Administrative Trust Fund to fund clerk education. An additional filing fee of up to *$18* ~~$15~~ shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to *$85* ~~$75~~ for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall

be paid by the party at whose instance service is made. No additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized herein or by general law.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed $50. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court and includes petitions for modification of a final judgment of dissolution. A party is exempt from paying the fee for any of the following:

1. A writ of garnishment;

2. A writ of replevin;

3. A distress writ;

4. A writ of attachment;

5. A motion for rehearing filed within 10 days;

6. A motion for attorney's fees filed within 30 days after entry of a judgment or final order;

7. A motion for dismissal filed after a mediation agreement has been filed;

8. A disposition of personal property without administration;

9. Any probate case prior to the discharge of a personal representative;

10. Any guardianship pleading prior to discharge;

11. Any mental health pleading;

12. Motions to withdraw by attorneys;

13. Motions exclusively for the enforcement of child support orders;

14. A petition for credit of child support;

15. A Notice of Intent to Relocate and any order issuing as a result of an uncontested relocation;

16. Stipulations;

17. Responsive pleadings; or

18. Cases in which there is no initial filing fee.

*(c) Any party other than a party described in paragraph (a) who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, or third-party complaint shall pay the clerk of court a fee of $295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund.*

*(d) The clerk of court shall collect a service charge of $10 for issuing a summons. The clerk shall assess the fee against the party seeking to have the summons issued.*

(2) Upon the institution of any appellate proceeding from any lower court to the circuit court of any such county, including appeals filed by a county or municipality as provided in s. 34.041(5), or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a filing fee not to exceed *$280* ~~$250~~ for filing a notice of appeal from the county court to the circuit court and, in addition to the filing fee required under s. 25.241 or s. 35.22, *$100* ~~$50~~ for filing a notice of appeal from the circuit court to the district court of appeal or to the Supreme Court. If the party is determined to be indigent, the clerk shall defer payment of the fee. The clerk shall remit the first *$80* ~~$50~~ to the Department of Revenue for deposit into the General Revenue Fund. One-third of the fee collected by the clerk in excess of *$80* ~~$50~~ also shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.

Section 9. Subsections (2) and (4) of section 28.35, Florida Statutes, are amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(2) The duties of the corporation shall include the following:

(a) Adopting a plan of operation.

(b) Conducting the election of directors as required in paragraph (1)(a).

(c) Recommending to the Legislature changes in the various court-related fines, fees, service charges, and court costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

(d) Pursuant to contract with the Chief Financial Officer, establishing a process for the review and certification of proposed court-related budgets submitted by clerks of the court for completeness and compliance with this section and ss. 28.36 and 28.37. This process shall be designed and be of sufficient detail to permit independent verification and validation of the budget certification. The contract shall specify the process to be used in determining compliance by the corporation with this section and ss. 28.36 and 28.37.

(e) Developing and certifying a uniform system of performance measures and applicable performance standards for the functions specified in paragraph (4)(a) and clerk performance in meeting the performance standards. These measures and standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. When the corporation finds a clerk has not met the performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court.

(f) Reviewing and certifying proposed budgets submitted by clerks of the court utilizing the process approved by the Chief Financial Officer pursuant to paragraph (d) for the purpose of making the certification in paragraph (3)(a). As part of this process, the corporation shall:

1. Calculate the maximum authorized annual budget pursuant to the requirements of s. 28.36.

2. Identify those proposed budgets exceeding the maximum annual budget pursuant to s. 28.36(5) for the standard list of court-related functions *specified in paragraph (4)(a)*.

3. Identify those proposed budgets containing funding for items not included on the standard list of court-related functions *specified in* ~~developed pursuant to~~ paragraph *(4)(a)* ~~(3)(a)~~.

4. Identify those clerks projected to have court-related revenues insufficient to fund their anticipated court-related expenditures.

(g) Developing and conducting clerk education programs.

*(h) Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court for court-related functions pursuant to general law.*

(4)(a) The list of court-related functions clerks may fund from filing fees, service charges, court costs, and fines shall be limited to those functions expressly authorized by law or court rule. Those functions must include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses; *payment of expenses for meals or lodging provided to jurors;* data collection and reporting; processing of jurors; determinations of indigent status; and reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

(b) The list of functions clerks may not fund from filing fees, service charges, court costs, and fines shall include:

1. Those functions not specified within paragraph (a).

2. Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a).

3. Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a).

4. Functions identified as local requirements in law or local optional programs.

~~(c) Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court for court-related functions pursuant to general law.~~

Section 10. For the purpose of incorporating the amendment made by this act to section 28.35, Florida Statutes, in references thereto, subsections (1) and (2), paragraph (a) of subsection (3), and subsections (4) and (5) of section 28.36, Florida Statutes, are reenacted to read:

28.36 Budget procedure.—There is hereby established a budget procedure for the court-related functions of the clerks of the court.

(1) Only those functions on the standard list developed pursuant to s. 28.35(4)(a) may be funded from fees, service charges, court costs, and fines retained by the clerks of the court. No clerk may use fees, service charges, court costs, and fines in excess of the maximum budget amounts as established in subsection (5).

(2) For the period July 1, 2004, through September 30, 2004, and for each county fiscal year ending September 30 thereafter, each clerk of the court shall prepare a budget relating solely to the performance of the standard list of court-related functions pursuant to s. 28.35(4)(a).

(3) Each proposed budget shall further conform to the following requirements:

(a) On or before August 15 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the standard list of court-related functions of the clerk's office developed pursuant to s. 28.35(4)(a) for the county fiscal year beginning the following October 1.

(4) If a clerk of the court estimates that available funds plus projected revenues from fines, fees, service charges, and costs for court-related services are insufficient to meet the anticipated expenditures for the standard list of court-related functions in s. 28.35(4)(a) performed by his or her office, the clerk must report the revenue deficit to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation pursuant to contract with the Chief Financial Officer. The corporation shall verify that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a).

(a) If the corporation verifies that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a) and a revenue deficit is projected, a clerk seeking to retain revenues pursuant to this subsection shall increase all fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less. If, after increasing fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law, a revenue deficit is still projected, the corporation shall, pursuant to the terms of the contract with the Chief Financial Officer, certify a revenue deficit and notify the Department of Revenue that the clerk is authorized to retain revenues, in an amount necessary to fully fund the projected revenue deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund pursuant to s. 28.37. If a revenue deficit is projected for that clerk after retaining all of the projected collections from the court-related fines, fees, service charges, and costs, the Department of Revenue shall certify the amount of the revenue deficit amount to the Executive Office of the Governor and request release authority for funds appropriated for this purpose from the Department of Revenue Clerks of the Court Trust Fund. Notwithstanding provisions of s. 216.192 related to the release of funds, the Executive Office of the Governor may approve the release of funds appropriated to resolve projected revenue deficits in accordance with the notice, review, and objection procedures set forth in s. 216.177 and shall provide notice to the Chief Financial Officer. The Department of Revenue is directed to request monthly distributions from the Chief Financial Officer in equal amounts to each clerk certified to have a revenue deficit, in accordance with the releases approved by the Governor.

(b) If the Chief Financial Officer finds the court-related budget proposed by a clerk includes functions not included in the standard list of court-related functions in s. 28.35(4)(a), the Chief Financial Officer shall notify the clerk of the amount of the proposed budget not eligible to be funded from fees, service charges, costs, and fines for court-related functions and shall identify appropriate corrective measures to ensure budget integrity. The clerk shall then immediately discontinue all ineligible expenditures of court-related funds for this purpose and reimburse the Clerks of the Court Trust Fund for any previously ineligible expenditures made for non-court-related functions, and shall implement any corrective actions identified by the Chief Financial Officer.

(5)(a) For the county fiscal year October 1, 2004, through September 30, 2005, the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall not exceed:

1. One hundred and three percent of the clerk's estimated expenditures for the prior county fiscal year; or

2. One hundred and five percent of the clerk's estimated expenditures for the prior county fiscal year for those clerks in counties that for calendar years 1998-2002 experienced an average annual increase of at least 5 percent in both population and case filings for all case types as reported through the Summary Reporting System used by the state courts system.

(b) For the county fiscal year 2005-2006, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be the approved budget for county fiscal year 2004-2005 adjusted by the projected percentage change in revenue between the county fiscal years 2004-2005 and 2005-2006.

(c) For the county fiscal years 2006-2007 and thereafter, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be established by first rebasing the prior fiscal year budget to reflect the actual percentage change in the prior fiscal year revenue and then adjusting the rebased prior fiscal year budget by the projected percentage change in revenue for the proposed budget year. The rebasing calculations and maximum annual budget calculations shall be as follows:

1. For county fiscal year 2006-2007, the approved budget for county fiscal year 2004-2005 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2005, and June 30, 2006. This result is the rebased budget for the county fiscal year 2005-2006. Then the rebased budget for the county fiscal year 2005-2006 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2005-2006 and 2006-2007. This result shall be the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for each clerk for the county fiscal year 2006-2007.

2. For county fiscal year 2007-2008, the rebased budget for county fiscal year 2005-2006 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2006, and June 30, 2007. This result is the rebased budget for the county fiscal year 2006-2007. The rebased budget for county fiscal year 2006-2007 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2006-2007 and 2007-2008. This result shall be the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for county fiscal year 2007-2008.

3. For county fiscal years 2008-2009 and thereafter, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be calculated as the rebased budget for the prior county fiscal year adjusted by the projected percentage change in revenues between the

prior county fiscal year and the county fiscal year for which the maximum budget amount is being authorized. The rebased budget for the prior county fiscal year shall always be calculated by adjusting the rebased budget for the year preceding the prior county fiscal year by the actual percentage change in revenues between the 12-month period ending June 30 of the year preceding the prior county fiscal year and the 12-month period ending June 30 of the prior county fiscal year.

Section 11. Subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

(1)(a) Upon the institution of any civil action, suit, or proceeding in county court, the party shall pay the following filing fee, not to exceed:

1. For all claims less than $100 . . . . . $50.

2. For all claims of $100 or more but not more than $500 . . . $75.

3. For all claims of more than $500 but not more than $2,500 . . . . . *$170* ~~$150~~.

4. For all claims of more than $2,500 . . . . . *$295* ~~$250~~.

5. In addition, for all proceedings of garnishment, attachment, replevin, and distress . . . . . *$85* ~~$75~~.

6. For removal of tenant action . . . . . *$265* ~~$75~~.

(b) The first *$80* ~~$50~~ of the filing fee collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. *The next $15 of the filing fee collected under subparagraph (a)4., and the first $15 of each filing fee collected under subparagraph (a)6., shall be deposited in the state courts' Mediation and Arbitration Trust Fund.* One-third of any filing fees collected by the clerk under this section in excess of the first *$95* ~~$50~~ collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee of $4 shall be paid to the clerk. The clerk shall transfer $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund clerk education. Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Except as otherwise provided herein, all filing fees shall be retained as fee income of the office of the clerk of circuit court. Filing fees imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318.

*(c) Any party other than a party described in paragraph (a) who files a pleading in an original civil action in the county court for affirmative relief by cross-claim, counterclaim, or third-party complaint, or who files a notice of cross-appeal or notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, shall pay the clerk of court a fee of $295 if the relief sought by the party under this paragraph exceeds $2,500. This fee shall not apply where the cross-claim, counterclaim, or third-party complaint requires transfer of the case from county to circuit court. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund.*

*(d) The clerk of court shall collect a service charge of $10 for issuing a summons. The clerk shall assess the fee against the party seeking to have the summons issued.*

Section 12. Section 35.06, Florida Statutes, is amended to read:

35.06 Organization of district courts of appeal.—A district court of appeal shall be organized in each of the five appellate districts to be named District Court of Appeal, . . . . District. The number of judges of each district court of appeal shall be as follows:

(1) In the first district there shall be 15 judges.

(2) In the second district there shall be 14 judges.

(3) In the third district there shall be *10* ~~11~~ judges.

(4) In the fourth district there shall be 12 judges.

(5) In the fifth district there shall be 10 judges.

Section 13. Subsection (3) of section 35.22, Florida Statutes, is amended to read:

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

(3)*(a)* The clerk, upon the filing of a certified copy of a notice of appeal or petition, shall charge and collect a filing fee of $300 for each case docketed, and service charges as provided in s. 28.24 for copying, certifying or furnishing opinions, records, papers or other instruments and for other services. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fee required in this subsection. From each attorney appearance pro hac vice, the clerk shall collect a fee of $100 for deposit as provided in this section.

*(b) Upon the filing of a notice of cross-appeal, or a notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, the clerk shall charge and collect a filing fee of $295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund. The state and its agencies are exempt from the filing fee required by this paragraph.*

Section 14. Subsections (3), (4), and (5) of section 40.24, Florida Statutes, are amended to read:

40.24 Compensation and reimbursement policy.—

(3)(a) Jurors who are regularly employed and who continue to receive regular wages while serving as a juror are not entitled to receive compensation from the *clerk of the circuit court* ~~state~~ for the first 3 days of juror service.

(b) Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive $15 per day for the first 3 days of juror service.

(4) Each juror who serves more than 3 days is entitled to be paid by the *clerk of the circuit court* ~~state~~ for the fourth day of service and each day thereafter at the rate of $30 per day of service.

(5) Jurors are not entitled to additional reimbursement by the *clerk of the circuit court* ~~state~~ for travel or other out-of-pocket expenses.

Section 15. Section 40.26, Florida Statutes, is amended to read:

40.26 Meals and lodging for jurors.—The sheriff, when required by order of the court, shall provide juries with meals and lodging, the expense to be ~~taxed against and~~ paid by the *clerk of the circuit court* ~~state~~.

Section 16. Section 40.29, Florida Statutes, is amended to read:

40.29 Payment of due-process costs.—

(1)~~(a)~~ Each clerk of the circuit court, on behalf of ~~the courts,~~ the state attorney, *private* court-appointed counsel, ~~and~~ the public defender*, and the criminal conflict and civil regional counsel*, shall forward to the Justice Administrative Commission, by county, a quarterly estimate of funds necessary to pay for ordinary witnesses, including, but not limited to, witnesses in civil traffic cases and witnesses of the state attorney, *the* public defender, *criminal conflict and civil regional counsel, private* court-appointed counsel, and persons determined to be indigent for costs. Each quarter of the state fiscal year, the commission, based upon the estimates, shall advance funds to each clerk to pay for these ordinary witnesses from state funds specifically appropriated for the payment of ordinary witnesses.

~~(b) Each clerk of the circuit court shall forward to the Office of the State Courts Administrator, by county, a quarterly estimate of funds necessary to pay juror compensation.~~

(2) Upon receipt of an estimate pursuant to subsection (1), the Justice Administrative Commission ~~or Office of State Courts Administrator, as applicable,~~ shall endorse the amount deemed necessary for payment

by the clerk of the court during the quarterly fiscal period and shall submit a request for payment to the Chief Financial Officer.

(3) Upon receipt of the funds from the Chief Financial Officer, the clerk of the court shall pay all invoices approved and submitted by the state attorney, *the* public defender, *criminal conflict and civil regional counsel,* and *private court-appointed counsel* ~~circuit court administrator~~ for the items enumerated in *subsection* ~~paragraphs~~ (1)~~(a) and (b)~~.

(4) After review for compliance with applicable rates and requirements, the Justice Administrative Commission shall pay all due process service related invoices, except those enumerated in *subsection* ~~paragraphs~~ (1)~~(a) and (b)~~, approved and submitted by the state attorney, *the* public defender, *criminal conflict and civil regional counsel,* or *private* court-appointed counsel in accordance with the applicable requirements of ss. 29.005, 29.006, and 29.007.

Section 17. Section 40.31, Florida Statutes, is amended to read:

40.31 *Justice Administrative Commission* ~~State Courts Administrator~~ may apportion appropriation.—If the *Justice Administrative Commission has* ~~State Courts Administrator shall have~~ reason to believe that the amount appropriated by the Legislature is insufficient to meet the expenses of ~~jurors and~~ witnesses during the remaining part of the state fiscal year, *the commission* ~~he or she~~ may apportion the money in the treasury for that purpose among the several counties, basing such apportionment upon the amount expended for the payment of ~~jurors and~~ witnesses in each county during the prior fiscal year. In such case, each county shall be paid by warrant, issued by the Chief Financial Officer, only the amount so apportioned to each county, and, when the amount so apportioned is insufficient to pay in full all the ~~jurors and~~ witnesses during a quarterly fiscal period, the clerk of the court shall apportion the money received pro rata among the ~~jurors and~~ witnesses entitled to pay and shall give to each ~~juror or~~ witness a certificate of the amount of compensation still due, which certificate shall be held by the *commission* ~~State Courts Administrator~~ as other demands against the state.

Section 18. Section 40.32, Florida Statutes, is amended to read:

40.32 Clerks to disburse money*; payments to jurors and witnesses*.—

*(1)* All moneys drawn from the treasury under the provisions of this chapter by the clerk of the court shall be disbursed by the clerk of the court as far as needed in payment of ~~jurors and~~ witnesses, except for expert witnesses paid *under* ~~pursuant to~~ a contract or other professional services agreement pursuant to ss. 29.004, 29.005, 29.006, and 29.007, for the legal compensation for service during the quarterly fiscal period for which *the* ~~said~~ moneys were drawn and for no other purposes.

*(2) The payment of jurors and the payment of expenses for meals and lodging for jurors under the provisions of this chapter are court-related functions that the clerk of the court shall fund from filing fees, service charges, court costs, and fines as part of the maximum annual budget under ss. 28.35 and 28.36.*

*(3)* Jurors and witnesses shall be paid by the clerk of the court either in cash or by warrant within 20 days after completion of jury service or of completion of service as a witness.

*(a)* Whenever the clerk of the court pays a juror or witness by cash, *the* ~~said~~ juror or witness shall sign the payroll in the presence of the clerk, a deputy clerk, or some other person designated by the clerk.

*(b)* Whenever the clerk pays a juror or witness by warrant, he or she shall endorse on the payroll opposite the juror's or witness's name the words "Paid by warrant," giving the number and date of the warrant.

Section 19. Section 40.33, Florida Statutes, is amended to read:

40.33 Deficiency.—If the funds required for payment of the items enumerated in s. 40.29(1)~~(a) or (b)~~ in any county during a quarterly fiscal period exceeds the amount of the funds provided pursuant to s. 40.29(3), the state attorney*,* ~~or~~ public defender, *or criminal conflict and civil regional counsel,* as applicable, shall make a further request upon the Justice Administrative Commission for the items enumerated in *s. 40.29(1)* ~~s. 40.29(1)(a) or the clerk of court shall make a further request upon the Office of the State Courts Administrator for items enumerated in s. 40.29(1)(b)~~ for the amount necessary to allow for full payment.

Section 20. Section 40.34, Florida Statutes, is amended to read:

40.34 Clerks to make triplicate payroll.—

(1) The clerk of the court shall make out a payroll in triplicate for the payment of ~~jurors and~~ witnesses, which payroll shall contain:

(a) The name of each ~~juror and~~ witness entitled to be paid with state funds;

(b) The number of days for which *the* ~~such jurors and~~ witnesses are entitled to be paid;

(c) The number of miles traveled by each; and

(d) The total compensation each ~~such juror or~~ witness is entitled to receive.

(2) The form of such payroll shall be prescribed by the Chief Financial Officer.

(3) Compensation paid a witness ~~or juror~~ shall be attested as provided in s. 40.32. The payroll shall be approved by the signature of the clerk, or his or her deputy, except for the payroll as to witnesses appearing before the state attorney, which payroll shall be approved by the signature of the state attorney or an assistant state attorney.

(4) The clerks of the courts shall forward two copies of such payrolls to the *Justice Administrative Commission* ~~State Courts Administrator~~, within 2 weeks after the last day of the quarterly fiscal period, and the *commission* ~~State Courts Administrator~~ shall audit such payrolls.

Section 21. *Section 40.35, Florida Statutes, is repealed.*

Section 22. Section 40.355, Florida Statutes, is amended to read:

40.355 Accounting and payment ~~to public defenders and state attorneys~~.—The clerk of the court shall, within 2 weeks after the last day of the state's quarterly fiscal period, render to the state attorney*,* ~~and~~ the public defender*, and the criminal conflict and civil regional counsel* in each circuit a full statement of accounts for *state* moneys received and disbursed under this chapter *for the payment of witnesses*.

Section 23. Section 40.361, Florida Statutes, is amended to read:

40.361 Applicability of laws regarding state budgeting and finances.—The requirements contained within chapter 216, including the provisions of s. 216.192 related to release of funds, chapter 29, including ss. 29.015 and 29.016 related to use of contingency funds for due process services, and all other laws of this state relating to state budgeting and financing shall apply to all processes authorized or required under this chapter for the payment of the items enumerated in s. 40.29(1)~~(a) and (b)~~.

Section 24. Section 44.108, Florida Statutes, is amended to read:

44.108 Funding of mediation and arbitration.—

(1) Mediation and arbitration should be accessible to all parties regardless of financial status. A filing fee of $1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the state courts' Mediation and Arbitration Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

(a) *One-hundred twenty* ~~Eighty~~ dollars per person per scheduled session in family mediation when the parties' combined income is greater than $50,000, but less than $100,000 per year;

(b) *Sixty* ~~Forty~~ dollars per person per scheduled session in family mediation when the parties' combined income is less than $50,000; or

(c) *Sixty* ~~Forty~~ dollars per person per scheduled session in county court cases.

No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the state courts' Mediation and Arbitration Trust Fund to fund court-ordered mediation. The clerk of court may deduct $1 per fee assessment for processing this fee. The clerk of the court shall submit to the chief judge of the circuit *and to the Office of the State Courts Administrator*, no later than 30 days after the end of each quarter *of the fiscal year, beginning July 1, 2008*, a report specifying the amount of funds collected *and remitted to the state courts' Mediation and Arbitration Trust Fund* under this *section and any other* section during *the previous* ~~each~~ quarter of the fiscal year. *In addition to identifying the total aggregate collections and remissions from all statutory sources, the report must identify collections and remissions by each statutory source.*

Section 25. Section 45.035, Florida Statutes, is amended to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(1) The clerk shall receive a service charge of *$70* ~~$60~~ for services in making, recording, and certifying the sale and title, which service charge shall be assessed as costs and shall be advanced by the plaintiff before the sale.

(2) If there is a surplus resulting from the sale, the clerk may receive the following service charges, which shall be deducted from the surplus:

(a) The clerk may withhold the sum of *$28* ~~$25~~ from the surplus which may only be used for purposes of educating the public as to the rights of homeowners regarding foreclosure proceedings.

(b) The clerk is entitled to a service charge of *$15* ~~$10~~ for notifying a surplus trustee of his or her appointment.

(c) The clerk is entitled to a service charge of *$15* ~~$10~~ for each disbursement of surplus proceeds.

(d) The clerk is entitled to a service charge of *$15* ~~$10~~ for appointing a surplus trustee, furnishing the surplus trustee with a copy of the final judgment and the certificate of disbursements, and disbursing to the surplus trustee the trustee's cost advance.

Section 26. Subsection (3) of section 55.505, Florida Statutes, is amended to read:

55.505 Notice of recording; prerequisite to enforcement.—

(3) No execution or other process for enforcement of a foreign judgment recorded hereunder shall issue until 30 days after the mailing of notice by the clerk and payment of a service charge of up to *$42* ~~$37.50~~ to the clerk. When an action authorized in s. 55.509(1) is filed, it acts as an automatic stay of the effect of this section.

Section 27. Subsection (1) of section 57.082, Florida Statutes, is amended to read:

57.082 Determination of civil indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment of an attorney in a civil case eligible for court-appointed counsel, or seeking relief from prepayment of fees and costs under s. 57.081, based upon an inability to pay must apply to the clerk of the court for a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.

(a) The application must include, at a minimum, the following financial information:

1. Net income, consisting of total salary and wages, minus deductions required by law, including court-ordered support payments.

2. Other income, including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, unemployment compensation, dividends, interest, rent, trusts, and gifts.

3. Assets, including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.

4. All liabilities and debts.

The application must include a signature by the applicant which attests to the truthfulness of the information provided. The application form developed by the corporation must include notice that the applicant may seek court review of a clerk's determination that the applicant is not indigent, as provided in this section.

(b) The clerk shall assist a person who appears before the clerk and requests assistance in completing the application, and the clerk shall notify the court if a person is unable to complete the application after the clerk has provided assistance.

(c) The clerk shall accept an application that is signed by the applicant and submitted on his or her behalf by a private attorney who is representing the applicant in the applicable matter.

*(d) A person who seeks appointment of an attorney in a case under chapter 39, at the trial or appellate level, for which an indigent person is eligible for court-appointed representation, shall pay a $50 application fee to the clerk for each application filed. The applicant shall pay the fee within 7 days after submitting the application. The clerk shall transfer monthly all application fees collected under this paragraph to the Department of Revenue for deposit into the Indigent Civil Defense Trust Fund, to be used as appropriated by the Legislature. The clerk may retain 10 percent of application fees collected monthly for administrative costs prior to remitting the remainder to the Department of Revenue. A person found to be indigent may not be refused counsel. If the person cannot pay the application fee, the clerk shall enroll the person in a payment plan pursuant to s. 28.246.*

Section 28. Subsection (6) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(6)(a)1. When support payments are made through the local depository or through the State Disbursement Unit, any payment or installment of support which becomes due and is unpaid under any support order is delinquent; and this unpaid payment or installment, and all other costs and fees herein provided for, become, after notice to the obligor and the time for response as set forth in this subsection, a final judgment by operation of law, which has the full force, effect, and attributes of a judgment entered by a court in this state for which execution may issue. No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment by operation of law process under paragraph (b) until the total amount of support payments due the obligee under the judgment has been paid.

2. A certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment under this paragraph.

3. The judgment under this paragraph is a final judgment as to any unpaid payment or installment of support which has accrued up to the time either party files a motion with the court to alter or modify the support order, and such judgment may not be modified by the court. The court may modify such judgment as to any unpaid payment or installment of support which accrues after the date of the filing of the motion to alter or modify the support order. This subparagraph does not prohibit the court from providing relief from the judgment pursuant to Rule 1.540, Florida Rules of Civil Procedure.

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support and the amount of the delinquency is greater than the periodic payment amount ordered by the court, the local depository shall serve notice on the obligor informing him or her of:

a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a service charge of up to *$25* ~~$7.50~~, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(c) Within 15 days after service of the notice is complete, the obligor may file with the court that issued the support order, or with the court in the circuit where the local depository which served the notice is located, a motion to contest the impending judgment. An obligor may contest the impending judgment only on the ground of a mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs and a service charge of up to *$25* ~~$7.50~~, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a service charge of up to *$25* ~~$7.50~~, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a service charge of up to *$25* ~~$7.50~~, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

(g) The local depository shall send the department monthly by electronic means a list of all Title IV-D and non-Title IV-D cases in which a judgment by operation of law has been recorded during the month for which the data is provided. At a minimum, the depository shall provide the names of the obligor and obligee, social security numbers of the obligor and obligee, if available, and depository number.

Section 29. Subsections (2) and (4) of section 316.193, Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than *$500* ~~$250~~ or more than *$1,000* ~~$500~~ for a first conviction.

b. Not less than *$1,000* ~~$500~~ or more than *$2,000* ~~$1,000~~ for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than *$2,000* ~~$1,000~~ or more than *$5,000* ~~$2,500~~ and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than *$2,000* ~~$1,000~~.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than *$1,000* ~~$500~~ or more than *$2,000* ~~$1,000~~ for a first conviction.

2. Not less than *$2,000* ~~$1,000~~ or more than *$4,000* ~~$2,000~~ for a second conviction.

3. Not less than *$4,000* ~~$2,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person

for up to 6 months for the first offense and for at least 2 years for a second offense, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

Section 30. Section 318.121, Florida Statutes, is amended to read:

318.121 Preemption of additional fees, fines, surcharges, and costs.—Notwithstanding any general or special law, or municipal or county ordinance, additional fees, fines, surcharges, or costs other than the court costs and surcharges assessed under s. 318.18(11)*,* ~~and~~ (13)*, and (18)* may not be added to the civil traffic penalties assessed in this chapter.

Section 31. Subsection (10) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(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 *$25* ~~$22~~, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of *$8* ~~$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. *Fourteen* ~~Twelve~~ dollars of such costs shall be distributed to the municipality and *$9* ~~$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 32. Subsection (1) of section 318.15, Florida Statutes, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

(1)(a) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of such failure within 10 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver's license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6). Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.

(b) However, a person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9), but who subsequently fails to attend the driver improvement school within the time specified by the court shall be deemed to have admitted the infraction and shall be adjudicated guilty. In such case the person must pay the clerk of the court the 18 percent deducted pursuant to s. 318.14(9), and a processing fee of up to *$18* ~~$15~~, after which no additional penalties, court costs, or surcharges shall be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

Section 33. Subsection (2) and paragraph (a) of subsection (11) of section 318.18, Florida Statutes, are amended, and subsection (18) is added to that section, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(2) Thirty dollars for all nonmoving traffic violations and:

(a) For all violations of s. 322.19.

(b) For all violations of ss. 320.0605, 320.07(1), 322.065, and 322.15(1). Any person who is cited for a violation of s. 320.07(1) shall be charged a delinquent fee pursuant to s. 320.07(4).

1. If a person who is cited for a violation of s. 320.0605 or s. 320.07 can show proof of having a valid registration at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to *$10* ~~$7.50~~. A person who finds it impossible or impractical to obtain a valid registration certificate must submit an affidavit detailing the reasons for the impossibility or impracticality. The reasons may include, but are not limited to, the fact that the vehicle was sold, stolen, or destroyed; that the state in which the vehicle is registered does not issue a certificate of registration; or that the vehicle is owned by another person.

2. If a person who is cited for a violation of s. 322.03, s. 322.065, or s. 322.15 can show a driver's license issued to him or her and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to *$10* ~~$7.50~~.

3. If a person who is cited for a violation of s. 316.646 can show proof of security as required by s. 627.733, issued to the person and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to *$10* ~~$7.50~~. A person who finds it impossible or impractical to obtain proof of security must submit an affidavit detailing the reasons for the impracticality. The reasons may include, but are not limited to, the fact that the vehicle has since been sold, stolen, or destroyed; that the owner or registrant of the vehicle is not required by s. 627.733 to maintain personal injury protection insurance; or that the vehicle is owned by another person.

(c) For all violations of ss. 316.2935 and 316.610. However, for a violation of s. 316.2935 or s. 316.610, if the person committing the violation corrects the defect and obtains proof of such timely repair by an affidavit of compliance executed by the law enforcement agency within 30 days from the date upon which the traffic citation was issued, and pays $4 to the law enforcement agency, thereby completing the affidavit of compliance, then upon presentation of said affidavit by the defendant to the clerk within the 30-day time period set forth under s. 318.14(4), the fine must be reduced to *$10* ~~$7.50~~, which the clerk of the court shall retain.

(d) For all violations of s. 316.126(1)(b), unless otherwise specified.

(11)(a) In addition to the stated fine, court costs must be paid in the following amounts and shall be deposited by the clerk into the fine and forfeiture fund established pursuant to s. 142.01:

For pedestrian infractions . . . . . *$4* ~~$ 3~~.

For nonmoving traffic infractions . . . . . *$18* ~~$ 16~~.

For moving traffic infractions . . . . . *$35* ~~$ 30~~.

*(18) In addition to any penalties imposed, an administrative fee of $12.50 must be paid for all noncriminal moving and nonmoving traffic violations under chapter 316. Revenue from the administrative fee shall be deposited by the clerk of court into the fine and forfeiture fund established pursuant to s. 142.01.*

Section 34. Subsections (1) and (2) of section 322.245, Florida Statutes, are amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.—

(1) If a person charged with a violation of any of the criminal offenses enumerated in s. 318.17 or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, the clerk of the traffic court shall mail to the person, at the address specified on the uniform traffic citation, a notice of such failure, notifying him or her that, if he or she does not comply with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of up to *$25* ~~$15~~ to the clerk, his or her driver's license will be suspended. The notice shall be mailed no later than 5 days after such failure. The delinquency fee may be retained by the office of the clerk to defray the operating costs of the office.

(2) In non-IV-D cases, if a person fails to pay child support under chapter 61 and the obligee so requests, the depository or the clerk of the court shall mail in accordance with s. 61.13016 the notice specified in that section, notifying him or her that if he or she does not comply with the requirements of that section and pay a delinquency fee of *$25* ~~$10~~ to the depository or the clerk, his or her driver's license and motor vehicle registration will be suspended. The delinquency fee may be retained by the depository or the office of the clerk to defray the operating costs of the office.

Section 35. Subsections (2) and (4) of section 327.35, Florida Statutes, are amended to read:

327.35 Boating under the influence; penalties; "designated drivers".—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than *$500* ~~$250~~ or more than *$1,000* ~~$500~~ for a first conviction.

b. Not less than *$1,000* ~~$500~~ or more than *$2,000* ~~$1,000~~ for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than *$2,000* ~~$1,000~~ or more than *$5,000* ~~$2,500~~ and by imprisonment for not more than 12 months.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

However, the fine imposed for such fourth or subsequent violation may not be less than *$2,000* ~~$1,000~~.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than *$1,000* ~~$500~~ or more than *$2,000* ~~$1,000~~ for a first conviction.

2. Not less than *$2,000* ~~$1,000~~ or more than *$4,000* ~~$2,000~~ for a second conviction.

3. Not less than *$4,000* ~~$2,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

Section 36. Subsection (4), paragraph (a) of subsection (9), and subsection (11) of section 327.73, Florida Statutes, are amended to read:

327.73 Noncriminal infractions.—

(4) Any person charged with a noncriminal infraction under this section may:

(a) Pay the civil penalty, either by mail or in person, within 30 days of the date of receiving the citation; or,

(b) If he or she has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the noncriminal infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. If a person who is cited for a violation of s. 327.395 can show a boating safety identification card issued to that person and valid at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to *$10* ~~$7.50~~. If a person who is cited for a violation of s. 328.72(13) can show proof of having a registration for that vessel which was valid at the time of the citation, the clerk may dismiss the case and may assess the dismissal fee.

(9)(a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 327.72 must pay an additional court cost of up to *$20* ~~$18~~, which shall be used by the clerks of the courts to defray the costs of tracking unpaid uniform boating citations.

(11)(a) Court costs that are to be in addition to the stated civil penalty shall be imposed by the court in an amount not less than the following:

1. For swimming or diving infractions, *$4* ~~$3~~.

2. For nonmoving boating infractions, *$18* ~~$6~~.

3. For boating infractions listed in s. 327.731(1), *$35* ~~$10~~.

(b) In addition to the court cost assessed under paragraph (a), the court shall impose a $3 court cost for each noncriminal infraction, to be distributed as provided in s. 938.01, and a $2 court cost as provided in s. 938.15 when assessed by a municipality or county.

Court costs imposed under this subsection may not exceed *$45* ~~$30~~. A criminal justice selection center or both local criminal justice access and assessment centers may be funded from these court costs.

Section 37. Paragraph (i) of subsection (1) of section 372.83, Florida Statutes, is amended to read:

372.83 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(1)

(i) A person cited for violating the requirements of s. 372.57 relating to personal possession of a license or permit may not be convicted if, prior to or at the time of a county court hearing, the person produces the required license or permit for verification by the hearing officer or the court clerk. The license or permit must have been valid at the time the person was cited. The clerk or hearing officer may assess a *$10* ~~$5~~ fee for costs under this paragraph.

Section 38. Subsection (1) of section 713.24, Florida Statutes, is amended to read:

713.24 Transfer of liens to security.—

(1) Any lien claimed under this part may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either:

(a) Depositing in the clerk's office a sum of money, or

(b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state,

either to be in an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for 3 years, plus $1,000 or 25 percent of the amount demanded in the claim of lien, whichever is greater, to apply on any attorney's fees and court costs that may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded. Upon making such deposit or filing such bond, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and shall mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon filing the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. In the absence of allegations of privity between the lienor and the owner, and subject to any order of the court increasing the amount required for the lien transfer deposit or bond, no other judgment or decree to pay money may be entered by the court against the owner. The clerk shall be entitled to a service charge for making and serving the certificate, in the amount of up to *$20* ~~$15~~. If the transaction involves the transfer of multiple liens, an additional charge of up to *$10* ~~$7.50~~ for each additional lien shall be charged. For recording the certificate and approving the bond, the clerk shall receive her or his usual statutory service charges as prescribed in s. 28.24. Any number of liens may be transferred to one such security.

Section 39. Subsection (3) of section 721.83, Florida Statutes, is amended to read:

721.83 Consolidation of foreclosure actions.—

(3) A consolidated timeshare foreclosure action shall be considered a single action, suit, or proceeding for the payment of filing fees and service charges pursuant to general law. In addition to the payment of such filing fees and service charges, an additional filing fee of up to *$10* ~~$5~~ for each timeshare estate joined in that action shall be paid to the clerk of court.

Section 40. Subsection (6) of section 744.365, Florida Statutes, is amended to read:

744.365 Verified inventory.—

(6) AUDIT FEE.—

(a) Where the value of the ward's property exceeds $25,000, a guardian shall pay from the ward's property to the clerk of the circuit court a fee of up to *$85* ~~$75~~, upon the filing of the verified inventory, for the auditing of the inventory. Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(b) An audit fee may not be charged to any ward whose property has a value of less than $25,000.

Section 41. Subsection (4) of section 744.3678, Florida Statutes, is amended to read:

744.3678 Annual accounting.—

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of $25,000 or less the clerk of the court may charge a fee of up to *$20* ~~$15~~.

(b) For estates with a value of more than $25,000 up to and including $100,000 the clerk of the court may charge a fee of up to *$85* ~~$75~~.

(c) For estates with a value of more than $100,000 up to and including $500,000 the clerk of the court may charge a fee of up to *$170* ~~$150~~.

(d) For estates with a value in excess of $500,000 the clerk of the court may charge a fee of up to *$250* ~~$225~~.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

Section 42. Subsection (2) of section 766.104, Florida Statutes, is amended to read:

766.104 Pleading in medical negligence cases; claim for punitive damages; authorization for release of records for investigation.—

(2) Upon petition to the clerk of the court where the suit will be filed and payment to the clerk of a filing fee, not to exceed *$42* ~~$37.50~~, an automatic 90-day extension of the statute of limitations shall be granted to allow the reasonable investigation required by subsection (1). This period shall be in addition to other tolling periods. No court order is required for the extension to be effective. The provisions of this subsection shall not be deemed to revive a cause of action on which the statute of limitations has run.

Section 43. Subsection (1) of section 938.05, Florida Statutes, is amended to read:

938.05 Additional court costs for felonies, misdemeanors, and criminal traffic offenses.—

(1) Any person pleading nolo contendere to a misdemeanor or criminal traffic offense under s. 318.14(10)(a) or pleading guilty or nolo contendere to, or being found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, shall pay as a cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

(a) Felonies . . . . . *$225* ~~$200~~

(b) Misdemeanors . . . . . *$60* ~~$50~~

(c) Criminal traffic offenses . . . . . *$60* ~~$50~~

Section 44. Subsections (1), (2), and (8) of section 938.27, Florida Statutes, are amended to read:

938.27 Judgment for costs on conviction.—

(1) In all criminal *and violation-of-probation or community-control* cases, convicted persons are liable for payment of the ~~documented~~ costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by

investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. *The court shall include* these costs *in every* ~~shall be included and entered in the~~ judgment rendered against the convicted person. *For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.*

(2)(a) *The court shall impose the costs of prosecution and investigation notwithstanding the defendant's present ability to pay.* The court shall require the defendant to pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;

2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or

3. Five years after the date of sentencing in any other case.

However, in no event shall the obligation to pay any unpaid amounts expire if not paid in full within the period specified in this paragraph.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(8) *Costs for the state attorney shall be set in all cases at no less than $50 per case when a misdemeanor or criminal traffic offense is charged and no less than $100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher costs incurred.* Costs *recovered on behalf of* ~~that are collected by~~ the state attorney under this section shall be deposited into the state attorney's grants and donations trust fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees*, or for any other purpose authorized by the Legislature*.

Section 45. Subsection (1) of section 938.29, Florida Statutes, is amended to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.—

(1)(a) A defendant *who is convicted* ~~determined to be guilty~~ of a criminal act *or a violation-of-probation or community-control* ~~by a court or jury or through a plea of guilty or nolo contendere~~ and who has received the assistance of the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs under s. 27.52, shall be liable for payment of *the assessed application fee under s. 27.52 and* attorney's fees and costs. *Attorney's fees and costs shall be set in all cases at no less than $50 per case when a misdemeanor or criminal traffic offense is charged and no less than $100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher fees or costs incurred. For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.* The court shall *include these fees and costs in every judgment rendered against the convicted person* ~~determine the amount of the obligation~~. ~~Such costs shall include, but not be limited to, the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the state and the clerk of court for the defense of the defendant in criminal prosecutions. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any costs assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. 938.05.~~

(b) Upon entering a judgment of conviction, the defendant shall be liable to pay the *attorney's fees and* costs in full after the judgment of conviction becomes final. *The court shall impose the attorney's fees and costs notwithstanding the defendant's present ability to pay.*

(c) The defendant shall pay the application fee under s. 27.52(1)(b) and attorney's fees and costs in full or in installments, at the time or times specified. The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. ~~The first $40 from attorney's fees and costs collected under this section shall be transferred monthly by the clerk to the Department of Revenue for deposit into the Indigent Criminal Defense Trust Fund.~~ All *funds* ~~remaining attorney's fees and costs~~ collected under this section shall be *distributed as provided in s. 27.562* ~~deposited into the General Revenue Fund~~.

Section 46. Section 984.08, Florida Statutes, is amended to read:

984.08 Attorney's fees.—

~~(1)~~ The court may appoint an attorney to represent a parent or legal guardian under this chapter only upon a finding that the parent or legal guardian is indigent *pursuant to s. 57.082. If an attorney is appointed, the parent or legal guardian shall be enrolled in a payment plan pursuant to s. 28.246.*

~~(a) The finding of indigence of any parent or legal guardian may be made by the court at any stage of the proceedings. Any parent or legal guardian claiming indigence shall file with the court an affidavit containing the factual information required in paragraphs (c) and (d).~~

~~(b) A parent or legal guardian who is unable to pay for the services of an attorney without substantial hardship to self or family is indigent for the purposes of this chapter.~~

~~(c) Before finding that a parent or legal guardian is indigent, the court shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the parent or legal guardian is not indigent:~~

~~1. The parent or legal guardian has no dependents and has a gross income exceeding $250 per week; or, the parent or legal guardian has dependents and has a gross income exceeding $250 per week plus $100 per week for each dependent.~~

~~2. The parent or legal guardian owns cash in excess of $1,000.~~

~~3. The parent or legal guardian has an interest exceeding $1,000 in value in a single motor vehicle as defined in s. 320.01.~~

~~(d) The court shall also consider the following circumstances before finding that a parent or legal guardian is indigent:~~

~~1. The probable expense of being represented in the case.~~

~~2. The parent's or legal guardian's ownership of, or equity in, any intangible or tangible personal property or real property or expectancy of an interest in any such property.~~

~~3. The amount of debts the parent or legal guardian owes or might incur because of illness or other misfortunes within the family.~~

~~(2) If, after the appointment of counsel for an indigent parent or legal guardian, it is determined that the parent or legal guardian is not indigent, the court has continuing jurisdiction to assess attorney's fees and costs against the parent or legal guardian, and order the payment thereof. When payment of attorney's fees or costs has been assessed and ordered by the court, there is hereby created a lien in the name of the county in which the legal assistance was rendered, enforceable as provided in subsection (3), upon all the property, both real and personal, of the parent or legal guardian who received the court-ordered appointed counsel under this chapter. The lien constitutes a claim against the parent or legal guardian and the parent's or legal guardian's estate in an amount to be determined by the court in which the legal assistance was rendered.~~

~~(3)(a) The lien created for court-ordered payment of attorney's fees or costs under subsection (2) is enforceable upon all the property, both real and personal, of the parent or legal guardian who is being, or has been, represented by legal counsel appointed by the court in proceedings under this chapter. The lien constitutes a claim against the person and the estate of the parent or legal guardian, enforceable according to law, in an amount to be determined by the court in which the legal assistance was rendered.~~

~~(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name, the residential address, the date of birth, and either a physical description or the social security number of the parent or legal guardian must be filed for record in the office of the clerk of the circuit court in the county where the parent or legal guardian resides and in each county in which the parent or legal guardian then owns or later acquires any property. The judgment is enforceable on behalf of the county by the board of county commissioners of the county in which the legal assistance was rendered.~~

~~(c) Instead of the procedure described in paragraphs (a) and (b), the court is authorized to require that the parent or legal guardian who has been represented by legal counsel appointed by the court in proceedings under this chapter execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created by the court's order requiring payment of attorney's fees or costs. The lien must be recorded in the public records of the county at no charge by the clerk of the circuit court and is enforceable in the same manner as a mortgage.~~

~~(d) The board of county commissioners of the county where the parent received the services of an appointed private legal counsel is authorized to enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If the court determines that payment of the amount due will impose manifest hardship on the parent or immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.~~

~~(e) The board of county commissioners of the county claiming the lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for collection is on a contingent basis not to exceed 50 percent of the recovery. However, no fee may be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.~~

Section 47. *Notwithstanding s. 28.36, Florida Statutes, the Florida Clerks of Court Operations Corporation may not approve increases to the clerks' budgets based on increased revenue generated under this act. The corporation may increase the clerks' budgets in the aggregate by $1,188,184 for the period from July 1, 2008, through September 30, 2008, and $3,564,551 for the period from October 1, 2008, through June 30, 2009, for the increased duties related to paying jurors and juror meals and lodging expenses as provided in this act. These budget increases shall be considered as part of the recurring base budget of the clerks for future budgets approved pursuant to s. 28.36, Florida Statutes.*

Section 48. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the state judicial system; amending s. 25.241, F.S.; requiring a fee for filing a notice of cross-appeal or certain joinder notices or intervenor motions with the Supreme Court; amending s. 26.57, F.S.; eliminating additional compensation for county judges presiding over circuit court cases; amending s. 27.511, F.S.; prescribing the types of civil proceedings in which assistant criminal conflict and civil regional counsel may not otherwise engage; authorizing part-time assistant regional counsel to practice criminal law with specified limitations; providing for the public defender to handle criminal appeals in certain cases for which trial representation was provided by the office of criminal conflict and civil regional counsel; providing an exception when the public defender has a conflict; amending s. 27.52, F.S.; increasing the application fee for determining indigent status for the purpose of receiving criminal representation by state-funded counsel; conforming provisions to changes made by the act; amending s. 27.562, F.S.; specifying that certain assessments collected from a defendant are in satisfaction of the application fee for a determination of indigent status; amending s. 28.24, F.S.; increasing charges for services rendered by the clerk of the circuit court in recording documents and instruments and performing other duties; amending s. 28.2401, F.S.; increasing services charges that the clerk of court is authorized to charge in probate matters; amending s. 28.241, F.S.; increasing filing fees for civil actions in circuit court; conforming provisions governing the remission of a portion of the fees to the General Revenue Fund; providing for a portion of the fees to be deposited in a designated trust fund in support of mediation activities; requiring a fee for filing cross-claims, counterclaims, and third-party pleadings; requiring a service charge for issuing a summons; increasing filing fees for instituting certain appellate proceedings; amending s. 28.35, F.S.; including the provision of meals and lodging for jurors within the court-related functions that the clerk of court may fund through fees, service charges, court costs, and fines; revising provisions to conform; clarifying duties of the Florida Clerks of Court Operations Corporation; reenacting s. 28.36(1), (2), (3)(a), (4), and (5), F.S., relating to budget procedures of the clerks of court, to incorporate the amendment to s. 28.35, F.S., in references thereto; amending s. 34.041, F.S.; increasing filing fees for civil actions in county court; conforming provisions governing the remission of a portion of the fees to the General Revenue Fund; providing for a portion of the fees to be deposited in a designated trust fund in support of mediation activities; requiring a fee for filing certain cross-claims, counterclaims, third-party pleadings, and certain appellate notices and motions; requiring a service charge for issuing a summons; amending s. 35.06, F.S.; reducing the number of judges in the Third District Court of Appeal; amending s. 35.22, F.S.; requiring a fee for filing a notice of cross-appeal or certain joinder notices or intervenor motions with a district court of appeal; amending s. 40.24, F.S.; providing for jurors to be compensated by the clerk of the court rather than the state; amending s. 40.26, F.S.; providing for certain meals and lodging expenses for jurors to be paid by the clerk of the court; amending s. 40.29, F.S.; revising requirements for the clerk of the court relating to payment of ordinary witnesses; including the criminal conflict and regional civil counsel among the persons on whose behalf the clerk of the court estimates funds for payment of witnesses; eliminating a requirement that the clerk of the court provide an estimate of certain juror expenses; revising provisions to conform; amending s. 40.31, F.S.; revising provisions to conform to the payment of juror compensation from funds retained by the clerk of the court; authorizing the Justice Administrative Commission rather than the State Courts Administrator to apportion certain funds for payment of witnesses by the clerk of the court; amending s. 40.32, F.S.; requiring that certain juror expenses be paid by the clerk of the court from fees, service charges, court costs, and fines; amending s. 40.33, F.S.; revising procedures related to a deficiency in funds for the payment of witnesses; revising provisions to conform; amending s. 40.34, F.S.; eliminating requirements that the clerk of the court prepare a juror payroll and provide copies to the State Courts Administrator; requiring the clerk to submit a witness payroll to the Justice Administrative Commission; repealing s. 40.35, F.S., relating to an accounting by the clerk of the court to the State Courts Administrator for funds for juror and witness payments; amending s. 40.355, F.S.; revising requirements for the clerk of the court to account for certain funds, to conform to changes made by the act; amending s. 40.361, F.S., relating to the applicability of certain state budgeting laws; conforming a cross-reference; amending s. 44.108, F.S.; increasing fees for court-ordered mediation services; requiring the clerk of the court to report the fees collected and deposited into the Mediation and Arbitration Trust Fund; amending s. 45.035, F.S.; increasing service charges related to judicial sales procedures; amending s. 55.505, F.S.; increasing a service charge for issuing execution or process for enforcement of a foreign judgment; amending s. 57.082, F.S.; creating an application fee for a determination of indigent status and appointment of an attorney in certain proceedings relating to children; providing for fees collected to be deposited into the Indigent Civil Defense Trust Fund; authorizing the clerk of the court to retain a portion of the fees collected; providing for a person who cannot pay the fee to be enrolled in a payment plan; amending s. 61.14, F.S.; increasing service charges related to enforcement and modification of support, maintenance, or alimony agreements or orders; amending s. 316.193, F.S.; increasing fines for driving under the influence; amending s. 318.121, F.S.; specifying that a new administrative fee for civil traffic violations is not preempted; amending s. 318.14, F.S.; increasing the court costs that are assessed in certain

noncriminal traffic cases; amending s. 318.15, F.S.; increasing the processing fee when a person is adjudicated guilty after failing to attend driver improvement school; amending s. 318.18, F.S.; increasing fees and court costs related to certain traffic infractions; creating an administrative fee for noncriminal moving and nonmoving traffic violations; amending s. 322.245, F.S.; increasing delinquency fees that are imposed for failing to comply with traffic court directives and that must be paid to avoid suspension of a driver's license; amending s. 327.35, F.S.; increasing fines for boating under the influence; amending s. 327.73, F.S.; increasing dismissal fees and court costs related to certain noncriminal vessel safety infractions; increasing the maximum amount of court costs that may be imposed; amending s. 372.83, F.S.; increasing the costs assessed by the clerk or a hearing officer for verifying that a person possesses a certain wildlife license or permit; amending s. 713.24, F.S.; increasing the fees charged by the clerk for making and serving a certificate showing transfer of a lien from real property to certain security; amending s. 721.83, F.S.; increasing the additional filing fee for joining a timeshare estate in a consolidated foreclosure action; amending s. 744.365, F.S.; increasing the fee paid by a guardian from the ward's property upon the filing of a verified inventory of the ward's property; amending s. 744.3678, F.S.; increasing the fees paid by a guardian from the ward's estate as part of an annual accounting; amending s. 766.104, F.S.; increasing the filing fee for securing an automatic extension of the statute of limitations to allow for investigation in medical negligence cases; amending s. 938.05, F.S.; increasing the additional costs that a person must pay in felony, misdemeanor, or criminal traffic offenses; amending s. 938.27, F.S.; defining the term "convicted" for purposes of paying the costs of prosecution; providing for the payment of costs in violation-of-probation or community-control cases; providing for the imposition of such costs notwithstanding a defendant's present ability to pay; prescribing minimum costs of prosecution; authorizing the court to establish higher costs of prosecution; amending s. 938.29, F.S.; providing for the payment of attorney's fees and costs in violation-of-probation or community-control cases; providing that certain defendants are liable for the application fee to determine indigent status for purposes of appointing counsel; prescribing minimum attorney's fees and costs related to representation in criminal cases; authorizing the court to establish higher fees and costs; defining the term "convicted" for purposes of paying attorney's fees and costs related to such representation; providing for distribution of funds collected from a defendant for the application fee, attorney's fees, and costs; amending s. 984.08, F.S.; eliminating authority for counties to collect on liens to pay costs related to court-appointed counsel in certain cases involving children and families in need of services; providing for parents or legal guardians to be enrolled in payment plans; prohibiting the Florida Clerks of Court Operations Corporation from increasing the clerks' budgets based on increased revenues under the act; authorizing the corporation to increase budgets in the aggregate for increased clerk duties related to the payment of juror expenses; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **CS for SB 1790** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Atwater | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1792**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1792, same being:

An act relating to **Criminal Justice Information**; deleting provisions requiring fees collected from private sector or noncriminal justice agencies for criminal history information be applied to offset the cost of producing the information; eliminating authorization of executive director of the Department of Law Enforcement to waive such fee, increasing the amount of the fee charged per record for criminal history information;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 126781;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 690948 to CS for SB 1792 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*

Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (690948)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (3) of section 943.053, Florida Statutes, is amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3)(a) Criminal history information, including information relating to minors, compiled by the Criminal Justice Information Program from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge. After providing the program with all known identifying information, persons in the private sector and noncriminal justice agencies may be provided criminal history information upon tender of fees as established in this subsection and in the manner prescribed by rule of the Department of Law Enforcement. ~~Such fees are to offset the cost of producing the record information, including the total cost of creating, storing, maintaining, updating, retrieving, improving, and providing criminal history information in a centralized, automated database, including personnel, technology, and infrastructure expenses.~~ Any access to criminal history information by the private sector or noncriminal justice agencies as provided in this subsection shall be assessed without regard to the quantity or category of criminal history record information requested. ~~Fees may be waived or reduced by the executive director of the Department of Law Enforcement for good cause shown.~~

(b) The fee per record for criminal history information provided pursuant to this subsection is *$24* ~~$23~~ per name submitted, except that the fee for vendors of the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Elderly Affairs shall be $8 for each name submitted; the fee for a state criminal history provided for application processing as required by law to be performed by the Department of Agriculture and Consumer Services shall be $15 for each name submitted; and the fee for requests under the National Child Protection Act shall be $18 for each volunteer name submitted. The state offices of the Public Defender shall not be assessed a fee for Florida criminal history information or wanted person information.

Section 2. *Subsection (3) of section 741.316, Florida Statutes, is repealed.*

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice information; amending s. 943.053, F.S.; deleting provisions requiring that fees collected from the private sector or noncriminal justice agencies for criminal history information be applied to offset the cost of producing the information; eliminating authorization for the executive director of the Department of Law Enforcement to waive such fees; increasing the amount of the fee charged per record for criminal history information; repealing s. 741.316(3), F.S., relating to provisions requiring that local domestic violence fatality review teams collect data concerning incidents of domestic violence and provisions requiring that the Department of Law Enforcement prepare an annual report using such date; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **CS for SB 1792** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1864**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1864, same being:

An act relating to **Medical Research**; repealing the annual appropriations for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 594597;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 781734 to CS for SB 1864 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*
*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (781734)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. *Subsection (12) of section 1004.445, Florida Statutes, is repealed.*

Section 2. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to medical research; repealing s. 1004.445(12), F.S., relating to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute; eliminating the annual appropriation for the institute; providing an effective date.

The Conference Committee Report was read and on motion by Senator Peaden was adopted. **CS for SB 1864** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—37

| | | |
|---|---|---|
| Mr. President | Dockery | Peaden |
| Alexander | Fasano | Posey |
| Aronberg | Gaetz | Rich |
| Atwater | Garcia | Ring |
| Baker | Geller | Saunders |
| Bennett | Haridopolos | Siplin |
| Bullard | Hill | Storms |
| Carlton | Jones | Villalobos |
| Constantine | King | Webster |
| Crist | Lawson | Wilson |
| Dean | Lynn | Wise |
| Deutch | Margolis | |
| Diaz de la Portilla | Oelrich | |

Nays—2

| | |
|---|---|
| Joyner | Justice |

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1882**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1882, same being:

An act relating to **Distribution of Excise Taxes**; revising provisions relating to the distribution of the excise tax on documents; revising the amount of moneys distributed to certain trust funds for certain purposes; revising provisions relating to the elimination or reduction of the service charge on the local option fuel tax and the amount deposited in the State Transportation Trust; revising provision for funding the University Concurrency Trust Fund within the Department of Education, conforming cross-references, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 760043;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 230882 to CS for SB 1882 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*
*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Sandra "Sandy" Adams*
*s/Thad Altman*

*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,* At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,* At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (230822)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 161.05301, Florida Statutes, is amended to read:

161.05301 Beach erosion control project staffing.—

(1) There are hereby appropriated to the Department of Environmental Protection six positions and $449,918 for fiscal year 1998-1999 from the Ecosystem Management and Restoration Trust Fund from revenues provided ~~by this act~~ pursuant to s. *201.15* ~~201.15(11)~~. These positions and funding are provided to assist local project sponsors, and shall be used to facilitate and promote enhanced beach erosion control project administration. Such staffing resources shall be directed toward more efficient contract development and oversight, promoting cost-sharing strategies and regional coordination or projects among local governments, providing assistance to local governments to ensure timely permit review, and improving billing review and disbursement processes.

Section 2. Subsection (3) of section 161.091, Florida Statutes, is amended to read:

161.091 Beach management; funding; repair and maintenance strategy.—

(3) In accordance with the intent expressed in s. 161.088 and the legislative finding that erosion of the beaches of this state is detrimental to tourism, the state's major industry, further exposes the state's highly developed coastline to severe storm damage, and threatens beach-related jobs, which, if not stopped, *may* ~~could~~ significantly reduce state sales tax revenues, funds deposited into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund, in the annual amounts provided in s. *201.15* ~~201.15(11)~~, shall be used, for a period of not less than 15 years, to fund the development, implementation, and administration of the state's beach management plan, as provided in ss. 161.091-161.212, prior to the use of such funds deposited pursuant to s. *201.15* ~~201.15(11)~~ in that trust fund for any other purpose.

Section 3. Section 201.15, Florida Statutes, as amended by section 43 of chapter 2007-73 and section 1 of chapter 2007-335, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter *are* ~~shall be distributed as follows and shall be~~ subject to the service charge imposed in s. 215.20(1). *Prior to distribution under this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter.* ~~, except that~~ Such *costs and the* service charge *may* ~~shall~~ not be levied against any portion of taxes pledged to debt service on bonds to the extent that the *costs and* ~~amount of the~~ service charge *are* ~~is~~ required to pay any amounts relating to the bonds. *All taxes remaining after deduction of costs and the service charge shall be distributed as follows*:

(1) *Sixty-three and thirty-one* ~~Sixty-two and sixty-three~~ hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Amounts ~~as shall be~~ necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund *may* ~~shall~~ not exceed $300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and $300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds *may* ~~shall~~ not exceed $30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional $30 million in each subsequent fiscal year, but *may* ~~shall~~ not exceed a total of $300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) Moneys shall be paid into the State Treasury to the credit of the Save Our Everglades Trust Fund in amounts necessary to pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to bonds issued under s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

~~(c) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a) and (b), shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund and may be used for any purpose for which funds deposited in the Land~~

~~Acquisition Trust Fund may lawfully be used. Payments made under this paragraph shall continue until the cumulative amount credited to the Land Acquisition Trust Fund for the fiscal year under this paragraph and paragraph (2)(b) equals 70 percent of the current official forecast for distributions of taxes collected under this chapter pursuant to subsection (2). As used in this paragraph, the term "current official forecast" means the most recent forecast as determined by the Revenue Estimating Conference. If the current official forecast for a fiscal year changes after payments under this paragraph have ended during that fiscal year, no further payments are required during the fiscal year.~~

*(c)*~~(d)~~ The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a) *and*~~,~~ (b)~~, and (c)~~, shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of *the lesser of 38.2 percent of the remainder or* $541.75 million in each fiscal year, to be ~~paid in quarterly installments and~~ used for the following specified purposes, notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, 10 percent of these funds;

b. For the purposes of the Small County Outreach Program specified in s. 339.2818, 5 percent of these funds;

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.; and

d. For the purposes of the Transportation Regional Incentive Program specified in s. 339.2819, 25 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.

2. ~~For the 2007-2008 fiscal year and each fiscal year thereafter,~~ The Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection in the amount of *the lesser of 5.64 percent of the remainder or* $80 million in each fiscal year, to be ~~paid in quarterly installments and~~ used as required by s. 403.890.

3. The Grants and Donations Trust Fund in the Department of Community Affairs in the amount of *the lesser of .23 percent of the remainder or* $3.25 million in each fiscal year ~~to be paid in monthly installments~~, with *92 percent* ~~$3 million~~ to be used to fund technical assistance to local governments and school boards on the requirements and implementation of this act and ~~$250,000~~ *the remaining amount* to be used to fund the Century Commission established in s. 163.3247.

*4. The Ecosystem Management and Restoration Trust Fund in the amount of the lesser of 2.12 percent of the remainder or $30 million in each fiscal year, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212.*

*5. The Marine Resources Conservation Trust Fund in the amount of the lesser of .14 percent of the remainder or $2 million in each fiscal year, to be used for marine mammal care as provided in s. 370.0603(3).*

*6. General Inspection Trust Fund in the amount of the lesser of .02 percent of the remainder or $300,000 in each fiscal year to be used to fund oyster management and restoration programs as provided in s. 370.07(3).*

Moneys distributed pursuant to this paragraph may not be pledged for debt service unless such pledge is approved by referendum of the voters.

*(d)*~~(e)~~ The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), *and* (c), ~~and (d)~~ shall be paid into the State Treasury to the credit of the General Revenue Fund to be used and expended for the purposes for which the General Revenue Fund was created and exists by law ~~or to the Ecosystem Management and Restoration Trust Fund, the Marine Resources Conservation Trust Fund, or the General Inspection Trust Fund as provided in subsection (11)~~.

(2) The lesser of *7.56* ~~seven and fifty-six hundredths~~ percent of the remaining taxes collected under this chapter or $84.9 million in each fiscal year shall be ~~used for the following purposes:~~

~~(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(c), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund, the Marine Resources Conservation Trust Fund, or the General Inspection Trust Fund as provided in subsection (11). Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(c) for the same fiscal year.~~

~~(b) The remainder of the moneys distributed under this subsection shall be~~ paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in the fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used.

(3) The lesser of *1.94* ~~one and ninety-four hundredths~~ percent of the remaining taxes collected under this chapter or $26 million in each fiscal year shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands and to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) The lesser of *4.2* ~~four and two-tenths~~ percent of the remaining taxes collected under this chapter or $60.5 million in each fiscal year shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59.

(5)(a) For the 2007-2008 fiscal year, 3.96 percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032. Ten and five-hundredths percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.

(b) Beginning July 1, 2008, 3.52 percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032. Eleven and fifteen hundredths percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.

(6) The lesser of *2.28* ~~two and twenty-eight hundredths~~ percent of the remaining taxes collected under this chapter or $34.1 million in each fiscal year shall be paid into the State Treasury to the credit of the Invasive Plant Control Trust Fund to carry out the purposes set forth in ss. 369.22 and 369.252.

(7) The lesser of *.5* ~~one-half of one~~ percent of the remaining taxes collected under this chapter or $9.3 million in each fiscal year shall be paid into the State Treasury to the credit of the State Game Trust Fund to be used exclusively for the purpose of implementing the Lake Restoration 2020 Program.

(8) One-half of one percent of the remaining taxes collected under this chapter shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources and to the credit of the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources, respectively. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for

water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices. The unobligated balance of funds received from the distribution of taxes collected under this chapter to address water quality impacts associated with nonagricultural nonpoint sources will be excluded when calculating the unobligated balance of the Water Quality Assurance Trust Fund as it relates to the determination of the applicable excise tax rate.

(9) The lesser of *7.53* ~~seven and fifty-three hundredths~~ percent of the remaining taxes collected under this chapter or $107 million in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10) The lesser of *8.66* ~~eight and sixty-six hundredths~~ percent of the remaining taxes collected under this chapter or $136 million in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

~~(11) From the moneys specified in paragraphs (1)(c) and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, $30 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, $2 million shall be paid into the State Treasury to the credit of the Marine Resources Conservation Trust Fund to be used for marine mammal care as provided in s. 370.0603(3), and $300,000 shall be paid into the State Treasury to the credit of the General Inspection Trust Fund in fiscal year 2006-2007 and each fiscal year thereafter, to be used to fund oyster management and restoration programs as provided in s. 370.07(3).~~

~~(12) The Department of Revenue may use the payments credited to trust funds pursuant to paragraphs (1)(c) and (2)(b) and subsections (3), (4), (5), (6), (7), (8), (9), and (10) to pay the costs of the collection and enforcement of the tax levied by this chapter. The percentage of such costs which may be assessed against a trust fund is a ratio, the numerator of which is payments credited to that trust fund under this section and the denominator of which is the sum of payments made under paragraphs (1)(c) and (2)(b) and subsections (3), (4), (5), (6), (7), (8), (9), and (10).~~

*(11)*~~(13)~~ The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), *may* ~~shall~~ not be used for land acquisition but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59.

*(12)*~~(14)~~ Amounts distributed pursuant to subsections (5), (6), (7), and (8) are subject to the payment of debt service on outstanding Conservation and Recreation Lands revenue bonds.

*(13)*~~(15)~~ Beginning July 1, 2008, in each fiscal year that the remaining taxes collected under this chapter exceed ~~such~~ collections in the prior fiscal year, the stated maximum dollar amounts provided in subsections (2), (4), (6), (7), (9), and (10) shall each be increased by an amount equal to 10 percent of the increase in the remaining taxes collected under this chapter multiplied by the applicable percentage provided in those subsections.

*(14)*~~(16)~~ If the payment requirements in any year for bonds outstanding on July 1, 2007, or bonds issued to refund such bonds, exceed the limitations of this section, distributions to the trust fund from which the bond payments are made shall be increased to the lesser of the amount needed to pay bond obligations or the limit of the applicable percentage distribution provided in subsections *(1)-(10)* ~~(1)-(12)~~.

*(15)*~~(17)~~ Distributions to the State Housing Trust Fund pursuant to subsections (9) and (10) shall be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to but not exceeding the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

*(16)*~~(18)~~ The remaining taxes collected under this chapter, after the distributions provided in the preceding subsections, shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 4. Section 215.211, Florida Statutes, is amended to read:

215.211 Service charge; elimination or reduction for specified proceeds.—

(1) Notwithstanding the provisions of s. 215.20(1) and (3), the service charge provided in s. 215.20(1) and (3), which is deducted from the proceeds of the taxes distributed under ss. 206.606(1), 207.026, 212.0501(6), and 319.32(5), shall be eliminated beginning July 1, 2000.

(2) Notwithstanding the provisions of s. 215.20(1) and (3), the service charge provided in s. 215.20(1) and (3), which is deducted from the proceeds of the taxes distributed under ss. 206.608 and 320.072(4), shall be eliminated beginning July 1, 2001.

(3) Notwithstanding the provisions of s. 215.20(1), the service charge provided in s. 215.20(1) *may not*~~, which is deducted from the proceeds of the local option fuel tax distributed under s. 336.025, shall be reduced as follows:~~

~~(a) For the period July 1, 2005, through June 30, 2006, the rate of the service charge shall be 3.5 percent.~~

~~(b) Beginning July 1, 2006, and thereafter, no service charge shall~~ be deducted from the proceeds of the local option fuel tax distributed under s. 336.025*(1)(a)*.

*(4) From the revenues derived from s. 336.025(1)(a), an amount equal to 7 percent of those revenues* ~~The increased revenues derived from this subsection~~ shall be deposited in the State Transportation Trust Fund and used to fund the County Incentive Grant Program and the Small County Outreach Program. Up to 20 percent of such funds shall be used for the purpose of implementing the Small County Outreach Program as provided in this act. Notwithstanding any other laws to the contrary, the requirements of ss. 339.135, 339.155, and 339.175 shall not apply to these funds and programs.

Section 5. Subsection (6) of section 339.2818, Florida Statutes, is amended to read:

339.2818 Small County Outreach Program.—

(6) Funds paid into the State Transportation Trust Fund pursuant to s. *201.15* ~~201.15(1)(d)~~ for the purposes of the Small County Outreach Program are hereby annually appropriated for expenditure to support the Small County Outreach Program.

Section 6. Subsection (5) of section 339.2819, Florida Statutes, is amended to read:

339.2819 Transportation Regional Incentive Program.—

(5) Funds paid into the State Transportation Trust Fund pursuant to s. *201.15* ~~201.15(1)(d)~~ for the purposes of the Transportation Regional Incentive Program are hereby annually appropriated for expenditure to support that program.

Section 7. Subsection (10) of section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.—

(10) Funds paid into the State Transportation Trust Fund pursuant to s. *201.15(1)(c)* ~~201.15(1)(d)~~ for the purposes of the State Infrastructure Bank are hereby annually appropriated for expenditure to support that program.

Section 8. Subsection (3) of section 339.61, Florida Statutes, is amended to read:

339.61 Florida Strategic Intermodal System; legislative findings, declaration, and intent.—

(3) Funds paid into the State Transportation Trust Fund pursuant to s. *201.15* ~~201.15(1)(d)~~ for the purposes of the Florida Strategic Intermodal System are hereby annually appropriated for expenditure to support that program.

Section 9. Subsection (6) of section 341.051, Florida Statutes, is amended to read:

341.051 Administration and financing of public transit and intercity bus service programs and projects.—

(6) ANNUAL APPROPRIATION.—Funds paid into the State Transportation Trust Fund pursuant to s. *201.15* ~~201.15(1)(d)~~ for the New Starts Transit Program are hereby annually appropriated for expenditure to support the New Starts Transit Program.

For purposes of this section, the term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 10. Subsection (3) of section 370.0603, Florida Statutes, is amended to read:

370.0603 Marine Resources Conservation Trust Fund; purposes.—

(3) Funds provided to the Marine Resources Conservation Trust Fund from taxes distributed under s. *201.15* ~~201.15(11)~~ shall be used for the following purposes:

(a) To reimburse the cost of activities authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. *The* ~~Such~~ facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operation related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through the contractual agreement to each facility for manatee rehabilitation must be proportionate to the number of manatees under acute care rehabilitation; the number of maintenance days medically necessary in the facility; and the number released during the previous fiscal year. The commission may set a cap on the total amount reimbursed per manatee per year.

(b) For training on the care, treatment, and rehabilitation of marine mammals at the Whitney Laboratory and the College of Veterinary Medicine at the University of Florida.

(c) For program administration costs of the agency.

(d) Funds not distributed in any 1 fiscal year must be carried over for distribution in subsequent years.

Section 11. Subsection (3) of section 370.07, Florida Statutes, is amended to read:

370.07 Wholesale and retail saltwater products dealers; regulation.—

(3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS.—The Department of Agriculture and Consumer Services shall use or distribute funds paid into the State Treasury to the credit of the General Inspection Trust Fund pursuant to s. *201.15* ~~201.15(11)~~, less reasonable costs of administration, to fund the following oyster management and restoration programs in Apalachicola Bay and other oyster harvest areas in the state:

(a) The relaying and transplanting of live oysters.

(b) Shell planting to construct or rehabilitate oyster bars.

(c) Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, and other relevant subjects.

(d) Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

Section 12. Subsection (1) of section 403.890, Florida Statutes, as amended by section 2 of chapter 2007-335, Laws of Florida, is amended to read:

403.890 Water Protection and Sustainability Program; intent; goals; purposes.—

(1) Effective July 1, 2006, revenues transferred from the Department of Revenue pursuant to s. *201.15(1)(c)2.* ~~201.15(1)(d)2.~~ shall be deposited into the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection. These revenues and any other additional revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund shall be distributed by the Department of Environmental Protection in the following manner:

(a) Sixty percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.

(b) Twenty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(c) Ten percent shall be disbursed for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

1. Thirty-five percent to the South Florida Water Management District;

2. Twenty-five percent to the Southwest Florida Water Management District;

3. Twenty-five percent to the St. Johns River Water Management District;

4. Seven and one-half percent to the Suwannee River Water Management District; and

5. Seven and one-half percent to the Northwest Florida Water Management District.

(d) Ten percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

Section 13. Subsection (1) of section 403.891, Florida Statutes, is amended to read:

403.891 Water Protection and Sustainability Program Trust Fund of the Department of Environmental Protection.—

(1) The Water Protection and Sustainability Program Trust Fund is created within the Department of Environmental Protection. The purpose of the trust fund is to receive funds pursuant to s. *201.15(1)(c)2.* ~~201.15(1)(d)2.~~, funds from other sources provided for in law and the General Appropriations Act, and funds received by the department in order to implement the provisions of the Water Sustainability and Protection Program created in s. 403.890.

Section 14. Subsection (1) of section 403.8911, Florida Statutes, is amended to read:

403.8911 Annual appropriation from the Water Protection and Sustainability Trust Fund.—

(1) Funds paid into the Water Protection and Sustainability Trust Fund pursuant to s. *201.15* ~~201.15(1)(d)~~ are hereby annually appropriated for expenditure for the purposes for which the Water Protection and Sustainability Trust Fund is established.

Section 15. Subsections (1) and (2) of section 1013.63, Florida Statutes, are amended to read:

1013.63 University Concurrency Trust Fund.—

(1) The University Concurrency Trust Fund is created within the Department of Education.

(2) *The trust fund may be funded each fiscal year as provided in the General Appropriations Act.* ~~Notwithstanding any other provision of law, the general revenue service charge deducted pursuant to s. 215.20 on revenues raised by any local option motor fuel tax levied pursuant to s. 336.025(1)(b), as created by chapter 93-206, Laws of Florida, shall be deposited in the University Concurrency Trust Fund, which is administered by the State Board of Education.~~ Moneys in such trust fund shall be for the purpose of funding university offsite improvements required to meet concurrency standards adopted under part II of chapter 163. In addition, in any year in which campus master plans are updated pursuant to s. 1013.30, but no more frequently than once every 5 years, up to 25 percent of the balance in the trust fund for that year may be used to defray the costs incurred in updating those campus master plans.

Section 16. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the distribution of excise taxes; amending s. 201.15, F.S.; revising provisions relating to the distribution of the excise tax on documents; authorizing the Department of Revenue to retain amounts necessary to pay certain costs; revising the amount of moneys distributed to certain trust funds for certain purposes; amending s. 215.211, F.S.; revising provisions relating to the elimination or reduction of the service charge on the local option fuel tax and the amount of deposited in the State Transportation Trust Fund; amending s. 1013.63, F.S.; revising provisions for funding the University Concurrency Trust Fund within the Department of Education; amending ss. 161.05301, 161.091, 339.2818, 339.2819, 339.55, 339.61, 341.051, 370.0603, 370.07, 403.890, 403.891, and 403.8911, F.S.; conforming cross-references; providing an effective date.

The Conference Committee Report was read and on motion by Senator Fasano was adopted. **CS for SB 1882** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Atwater | Bullard |
| Alexander | Baker | Carlton |
| Aronberg | Bennett | Constantine |
| Crist | Hill | Posey |
| Dean | Jones | Rich |
| Deutch | Joyner | Ring |
| Diaz de la Portilla | Justice | Saunders |
| Dockery | King | Siplin |
| Fasano | Lawson | Storms |
| Gaetz | Lynn | Villalobos |
| Garcia | Margolis | Webster |
| Geller | Oelrich | Wilson |
| Haridopolos | Peaden | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1888**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1888, same being:

An act relating to **State Employment**; providing for the resolution of certain collective bargaining issues at impasse between the State of Florida and certified bargaining units of state employees; providing for other mandatory collective bargaining issues that are at impasse and that are not addressed by the act or the General Appropriations Act to be resolved consistent with personnel rules or by otherwise maintaining the statue quo, providing an effective date;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 627385;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 696562 to CS for SB 1888 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*

Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (696562)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. *All collective bargaining issues at impasse for the 2008-2009 fiscal year between the State of Florida and the legal representatives of the certified bargaining units for state employees shall be resolved as follows:*

*(1) Collective bargaining issues at impasse between the State of Florida and the Florida State Fire Service Association regarding Article 24 "On Call, Assignment, Call Back and Residency" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(2) Collective bargaining issues at impasse between the State of Florida and the American Federation of State, County and Municipal Employees, Florida Council 79, regarding Article 5 "Union Activities and Employee Representation," Article 6 "Grievance Procedure," Article 8 "Workforce Reduction," Article 9 "Vacant" (proposed by AFSCME as "Reassignment, Transfer and Change in Duty Station"), Article 10 "Vacant" (proposed by AFSCME as "Promotion"), Article 15 "Length of Service Preference," Article 18 "Leaves of Absence, Hours of Work, Disability Leave," Article 24 "On Call, Assignment and Call Back," AFSCME Proposed New Article "Evaluation of Supervisory Employees," AFSCME Proposed New Article "Special Risk Retirement," AFSCME Proposed New Article "Flexible Spending Plan," and AFSCME Proposed New Article "Workload Quota" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(3) Collective bargaining issues at impasse between the State of Florida and the Police Benevolent Association - Highway Patrol Unit regarding Article 7 "Internal Investigations," Article 10 "Disciplinary Action," Article 15 "Seniority," and Article 18 "Hours of Work, Leave, and Job-connected Disability" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(4) Collective bargaining issues at impasse between the State of Florida and the Police Benevolent Association - Law Enforcement Unit regarding Article 10 "Disciplinary Action" and Article 18 "Hours of Work, Leave, and Job-connected Disability" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(5) Collective bargaining issues at impasse between the State of Florida and the Police Benevolent Association - Special Agents Unit regarding Article 18 "Leave" and Article 23 "Workday, Workweek and Overtime" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(6) Collective bargaining issues at impasse between the State of Florida and the Federation of Physicians and Dentists - Physicians Unit regarding Article 4 "No Discrimination" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(7) Collective bargaining issues at impasse between the State of Florida and the Federation of Physicians and Dentists - State Employees Attorneys Guild regarding Article 7 "Employee Standards of Conduct and Performance" and Article 16 "Hours of Work and Employee Leave" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*(8) Collective bargaining issues at impasse between the State of Florida and the Florida Nurses Association - Professional Health Care Unit regarding Article 26 "Differential Pay" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.*

*All other mandatory collective bargaining issues at impasse for the 2008-2009 fiscal year which are not addressed by this act or the General Appropriations Act for the 2008-2009 fiscal year shall be resolved consistent with the personnel rules in effect on May 2, 2008, and by otherwise maintaining the status quo under the language of the current collective bargaining agreements.*

Section 2. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to state employment; providing for the resolution of certain collective bargaining issues at impasse between the State of Florida and certified bargaining units of state employees; providing for all other mandatory collective bargaining issues that are at impasse and that are not addressed by the act or the General Appropriations Act to be resolved consistent with personnel rules or by otherwise maintaining the status quo; providing an effective date.

The Conference Committee Report was read and on motion by Senator Carlton was adopted. **CS for SB 1888** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1892**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1892, same being:

An act relating to **State Data Center System**; amending the duties and responsibilities of the Agency for Enterprise Information Technology, authorizing the agency to adopt rules, requiring the agency to review an agency's request to accept credit, charge, or debit cards in payment of goods and services and make recommendations to the Chief Financial Officer, establishing a state data center system, establishing the Northwood Shared Resource Center;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 040161;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 686356 to CS for SB 1892 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*
*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
Paula Dockery
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
Paige Kreegel
*s/John Legg*
*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (686356)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 14.204, Florida Statutes, is amended to read:

14.204 Agency for Enterprise Information Technology.—The Agency for Enterprise Information Technology is created within the Executive Office of the Governor.

*(1)* The head of the agency shall be the Governor and Cabinet~~, which shall take action by majority vote consisting of at least three affirmative votes with the Governor on the prevailing side~~.

*(2)* The agency shall be a separate budget entity that is not subject to control, supervision, or direction by the Executive Office of the Governor in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

*(3)*~~(1)~~ The *agency shall have an* executive director *who must:* ~~of the agency shall~~

*(a) Have a degree from an accredited postsecondary institution;*

*(b) Have at least 7 years of executive-level experience in managing information technology organizations;*

*(c)* Be appointed by the Governor and *confirmed by the* Cabinet, ~~is~~ subject to confirmation by the Senate, and ~~shall~~ serve at the pleasure of the Governor and Cabinet*; and*~~. The executive director shall~~

*(d)* Be the chief information officer of the state ~~and the executive sponsor for all enterprise information technology projects. The executive director must have a degree from an accredited postsecondary institution, and at least 7 years of executive-level experience in managing information technology organizations.~~

*(4)*~~(2)~~ The agency shall have the following duties and responsibilities:

(a) Develop ~~and implement~~ strategies for the design, delivery, and management of the enterprise information technology services established in law.

(b) Monitor the delivery and management of the enterprise information technology services as established in law.

(c) Make recommendations to the agency head and the Legislature concerning other information technology services that should be designed, delivered, and managed *as* ~~at the~~ enterprise *information technology services* ~~level~~ as defined in s. *282.0041* ~~282.0041(8)~~.

(d) Plan and establish policies for managing proposed statutorily authorized enterprise information technology services, which includes*:*

*1.* Developing business cases that, when applicable, include the components identified in s. 287.0574;

*2.* Establishing and coordinating project-management teams;

*3.* Establishing formal risk-assessment and mitigation processes; and

*4.* Providing for independent monitoring of projects for recommended corrective actions.

(e) ~~Not earlier than July 1, 2008,~~ Define the architecture standards for enterprise information technology *services* and develop implementation approaches for statewide migration to those standards.

(f) Develop and publish a strategic enterprise information technology plan that identifies and recommends strategies for how enterprise information technology *services* will deliver effective and efficient government services to state residents and improve the operations of state agencies.

*(g) Perform duties related to the state data center system as provided in s. 282.201.*

*(h) Coordinate procurement negotiations for hardware and software acquisition necessary to consolidate data center or computer facilities infrastructure.*

*(i) In consultation with the Division of Purchasing in the Department of Management Services, coordinate procurement negotiations for software that will be used by multiple agencies.*

*(j) In coordination with, and through the services of, the Division of Purchasing in the Department of Management Services, develop best practices for technology procurements.*

*(5)*~~(3)~~ The agency shall operate in ~~such~~ a manner *that ensures the* ~~as to ensure~~ participation and representation of state agencies and the Agency Chief Information Officers Council established in s. 282.315.

*(6) The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out its statutory duties.*

Section 2. Subsection (2) of section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch.—

(2) A state agency as defined in s. 216.011, or the judicial branch, may accept credit cards, charge cards, or debit cards in payment for goods and services with the prior approval of the Chief Financial Officer. *If* ~~When~~ the Internet or other related electronic methods are to be used as the collection medium, the *Agency for Enterprise Information Technology* ~~State Technology Office~~ shall review and recommend to the Chief Financial Officer whether to approve the request with regard to the process or procedure to be used.

Section 3. Paragraph (c) of subsection (4) and subsection (6) of section 216.235, Florida Statutes, are amended to read:

216.235 Innovation Investment Program.—

(4) There is hereby created the State Innovation Committee, which shall have final approval authority as to which innovative investment projects submitted under this section shall be funded. Such committee shall be comprised of seven members. Appointed members shall serve terms of 1 year and may be reappointed. The committee shall include:

(c) The *executive director of* ~~Chief Information Officer in~~ the *Agency for Enterprise Information Technology* ~~State Technology Office~~.

(6) Any agency developing an innovative investment project proposal that involves information technology resources may consult with and seek technical assistance from the *Agency for Enterprise Information Technology* ~~State Technology Office~~. The office shall consult with the *Agency for Enterprise Information Technology concerning* ~~State Technology Office for~~ any project proposal that involves *enterprise* information ~~resource~~ technology *resources*. The *Agency for Enterprise Information Technology shall evaluate the project and advise* ~~State Technology Office is responsible for evaluating these projects and for advising~~ the committee and review board of the technical feasibility and any transferable benefits of the proposed technology. In addition to the requirements of subsection (5), the agencies shall provide to the *Agency for Enterprise Information Technology* ~~State Technology Office~~ any information requested by the *Agency for Enterprise Information Technology* ~~State Technology Office~~ to aid in determining *whether* ~~that~~ the proposed technology is appropriate for the project's success.

Section 4. Section 282.003, Florida Statutes, is amended to read:

282.003 Short title.—This part may be cited as the "Information *Technology* Resources Management Act ~~of 1997~~."

Section 5. Section 282.0041, Florida Statutes, is amended to read:

282.0041 Definitions.—For the purposes of this part, the term:

(1) "Agency" means those entities described in s. 216.011(1)(qq).

(2) "Agency Chief Information Officer" means the person appointed by the agency head to coordinate and manage the information technology functions and responsibilities applicable to that agency and to participate and represent *the* ~~his or her~~ agency in developing strategies for implementing enterprise information technology services identified in law and developing recommendations for enterprise information technology policy.

(3) "Agency Chief Information Officers Council" means the council created in s. 282.315.

(4) "Agency for Enterprise Information Technology" means the agency created in s. 14.204.

(5) "Agency information technology service" means a service that directly helps *an* ~~the~~ agency fulfill its statutory or constitutional responsibilities and policy objectives and is usually associated with the agency's primary or core business functions.

*(6) "Annual budget meeting" means a meeting of the board of trustees of a primary data center to review data center usage to determine the apportionment of board members for the following fiscal year, review rates for each service provided, and determine any other required changes.*

*(7) "Business continuity plan" means a plan for disaster recovery which provides for the continued functioning of a primary data center during and after a disaster.*

*(8) "Computing facility" means agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, but excluding single-server installations that exclusively perform a utility function such as file and print servers.*

*(9) "Customer entity" means an entity that obtains services from a primary data center.*

*(10) "Data center" means agency space containing 10 or more servers any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023.*

~~(6) "Customer relationship management" or "CRM" means the business processes, software, and Internet capabilities that can help state agencies manage customer relationships of the organization at the enterprise level.~~

*(11)*~~(7)~~ "Enterprise level" means all executive branch agencies created or authorized in statute to perform legislatively delegated functions.

*(12)*~~(8)~~ "Enterprise information technology service" means an information technology service that is used in all agencies or a subset of agencies and is established in law to be designed, delivered, and managed at the enterprise level.

*(13)*~~(9)~~ "E-mail, messaging, and calendaring service" means the enterprise information technology service that enables users to send, receive, file, store, manage, and retrieve electronic messages, attachments, appointments, and addresses.

*(14) "Information-system utility" means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.*

*(15)*~~(10)~~ "Information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

*(16)*~~(11)~~ "Information technology policy" means statements that describe clear choices for how information technology will deliver effective and efficient government services to residents and improve state agency operations. ~~Such~~ A policy may relate to investments, business applications, architecture, or infrastructure. A policy describes its rationale, implications of compliance or noncompliance, the timeline for implementation, metrics for determining compliance, and the accountable structure responsible for its implementation.

*(17) "Performance metrics" means the measures of an organization's activities and performance.*

*(18) "Primary data center" means a state or nonstate agency data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities. A primary data center may be authorized in law or designated by the Agency for Enterprise Information Technology pursuant to s. 282.201.*

*(19)*~~(12)~~ "Project" means an endeavor that has a defined start and end point; is undertaken to create or modify a unique product, service, or result; and has specific objectives that, when attained, signify completion.

*(20) "Service level" means the key performance indicators (KPI) of an organization or service which must be regularly performed, monitored, and achieved.*

*(21) "Service-level agreement" means a written contract between a data center and a customer entity which specifies the scope of services provided, service level, the duration of the agreement, the responsible parties, and service costs. A service-level agreement is not a rule pursuant to chapter 120.*

*(22)*~~(13)~~ "Standards" means the use of current, open, nonproprietary, or non-vendor-specific technologies.

*(23)*~~(14)~~ "Total cost" means all costs associated with information technology projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources*; however*, ~~except that~~ the total cost of loans or gifts of information technology to state universities to be used in instruction or research does not include fair market value.

*(24) "Usage" means the billing amount charged by the primary data center, less any pass-through charges, to the customer entity.*

*(25) "Usage rate" means a customer entity's usage or billing amount as a percentage of total usage.*

Section 6. Section 282.0055, Florida Statutes, is amended to read:

282.0055 Assignment of information technology.—In order to ensure the most effective and efficient use of the state's information technology and information technology resources and notwithstanding other provisions of law to the contrary, policies for the design, planning, project management, and implementation of ~~the~~ enterprise information technology services ~~defined in s. 282.0041(8)~~ shall be the responsibility of the Agency for Enterprise Information Technology for executive branch agencies created or authorized in statute to perform legislatively delegated functions. The supervision, design, delivery, and management of agency information technology ~~defined in s. 282.0041(5)~~ shall remain within the responsibility and control of the individual state agency.

Section 7. Section 282.0056, Florida Statutes, are amended to read:

282.0056 Development of work plan; development of implementation plans; and policy recommendations.—

(1) For *the* purposes of carrying out its responsibilities *under* ~~set forth in~~ s. 282.0055, the Agency for Enterprise Information Technology shall develop *an annual* ~~a~~ work plan *within 60 days after the beginning of the fiscal year* describing the activities that the agency intends to undertake *for that year, including* ~~and the~~ proposed outcomes *and completion timeframes. The work plan must be presented at a public hearing that includes the Agency Chief Information Officers Council, which may review and comment on the plan.* The work plan must *thereafter* be approved by the Governor and Cabinet and submitted to the President of the Senate and the Speaker of the House of Representatives. The work plan may be amended as needed*, subject to approval by the Governor and Cabinet* ~~to ensure that the enterprise information technology services will be provided in an efficient, effective, and accountable manner~~. ~~For the 2007-2008 fiscal year, the agency's work plan shall include the development of recommended enterprise information technology policies, as defined in s. 282.0041(11).~~

(2) *By December 31, 2009,* ~~For the fiscal year beginning in 2008-2009~~, the agency shall develop*, and submit to the President of the Senate and the Speaker of the House of Representatives,* implementation plans for *at least one* ~~up to three~~ of the following proposed enterprise information technology services to be established in law:

~~(a) Consolidation of the deployment, management, and operation of state-owned or state-operated computer rooms and data centers.~~

*(a)*~~(b)~~ A shared or consolidated enterprise information technology service delivery and support model for the e-mail, messaging, and calendaring service ~~defined in s. 282.0041(9)~~.

*(b)*~~(c)~~ Information security.

~~(d) A shared customer relationship management system that consolidates agency requirements for receiving, managing, responding to, tracking, and reporting on telephone, e-mail, personnel, and other communications received from citizens.~~

*(c)*~~(e)~~ Consideration of a planned replacement cycle for computer equipment.

(3) In developing policy recommendations and implementation plans for established and proposed enterprise information technology services, the agency shall describe the scope of operation, conduct costs and requirements analyses, conduct an inventory of all existing information technology resources that are associated with each service, and develop strategies and timeframes for statewide migration. For purposes of consolidating state-owned or state-operated computer rooms and data centers, the agency ~~for Enterprise Information Technology~~ shall develop a migration plan *for* ~~prior to initiating~~ any consolidation effort.

(4) For the purpose of completing its work activities, each state agency shall provide to the agency ~~for Enterprise Information Technology~~ all requested information, including, but not limited to, the *state* agency's costs, service requirements, and equipment inventories.

*(5) Within 60 days after the end of each fiscal year, the agency shall report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives on what was achieved or not achieved in the prior year's work plan.*

Section 8. Section 282.201, Florida Statutes, is created to read:

*282.201 State data center system; agency duties and limitations.—A state data center system that includes all primary data centers, other nonprimary data centers, and computing facilities, and that provides an enterprise information technology service as defined in s. 282.0041, is established.*

*(1) INTENT.—The legislature finds that the most efficient and effective means of providing quality utility data processing services to state agencies requires that computing resources be concentrated in quality*

*facilities that provide the proper security, infrastructure, and staff resources to ensure that the state's data is maintained reliably, safely, and is recoverable in the event of a disaster. Efficiencies resulting from such consolidation include the increased ability to leverage technological expertise, hardware and software capabilities; increased savings through consolidated purchasing decisions; and the enhanced ability to deploy technology improvements and implement new policies consistently throughout the consolidated organization. Therefore it is the intent of the Legislature that agency data centers and computing facilities be consolidated into primary data centers to the maximum extent possible by 2019.*

*(2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—The Agency for Enterprise Information Technology shall:*

*(a) Collect and maintain information necessary for developing policies relating to the data center system, including, but not limited to, an inventory of facilities.*

*(b) Annually approve cost-recovery mechanisms and rate structures for primary data centers which recover costs through charges to customer entities.*

*(c) By December 31 of each year beginning in 2009, submit to the Legislature recommendations to improve the efficiency and effectiveness of computing services provided by state data center system facilities. Such recommendations may include, but need not be limited to:*

*1. Policies for improving the cost-effectiveness and efficiency of the state data center system.*

*2. Infrastructure improvements supporting the consolidation of facilities or preempting the need to create additional data center facilities or computing facilities.*

*3. Standards for an objective, credible energy performance rating system that data center boards of trustees can use to measure state data center energy consumption and efficiency on a biannual basis.*

*4. Uniform disaster recovery standards.*

*5. Standards for providing transparent financial data to user agencies.*

*6. Consolidation of contract practices or coordination of software, hardware, or other technology-related procurements.*

*7. Improvements to data center governance structures.*

*(d) By December 31 of each year beginning in 2009, identify at least two nonprimary data centers or computing facilities for consolidation into a primary data center or nonprimary data center facility. The consolidation proposal must provide a transition plan, including estimated transition costs, timeframes for the transition, proposed budgetary savings, and substantive legislative changes necessary to implement the transition.*

*1. Recommendations shall be based on the goal of maximizing current and future cost savings. The agency shall consider the following criteria in selecting consolidations that maximize efficiencies by providing the ability to:*

*a. Consolidate purchase decisions;*

*b. Leverage expertise and other resources to gain economies of scale;*

*c. Implement state information technology policies more effectively;*

*d. Maintain or improve the level of service provision to customer entities; and*

*e. Make progress towards the state's goal of consolidating data centers and computing facilities into primary data centers.*

*2. The agency shall establish workgroups as necessary to ensure participation by affected agencies in the development of recommendations related to consolidations.*

*3. By December 31, 2010, the agency shall develop and submit to the Legislature an overall consolidation plan for state data centers and computing facilities. The plan shall indicate a timeframe for the consolidation of all remaining facilities into primary data centers, including existing and proposed data centers, by 2019.*

*4. This paragraph expires July 1, 2017.*

*(e) Develop and establish policies by rule relating to the operation of the state data center system which must comply with applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R. The policies may address:*

*1. Ensuring that financial information is captured and reported consistently and accurately.*

*2. Requiring the establishment of service-level agreements executed between a data center and its customer entities for services provided.*

*3. Requiring annual full cost recovery on an equitable rational basis. The cost-recovery methodology must ensure that no service is subsidizing another service and may include adjusting the subsequent year's rates as a means to recover deficits or refund surpluses from a prior year.*

*4. Requiring that any special assessment imposed to fund expansion is based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.*

*5. Requiring that rebates be given when revenues have exceeded costs, that rebates be applied to offset charges to those customer entities that have subsidized the costs of other customer entities, and that such rebates may be in the form of credits against future billings.*

*6. Requiring that all service-level agreements have a contract term of up to 3 years, but may include an option to renew for up to 3 additional years contingent on approval by the board, and require at least a 180-day notice of termination.*

*7. Designating any nonstate data centers as primary data centers if the center:*

*a. Has an established governance structure that represents customer entities proportionally.*

*b. Maintains an appropriate cost-allocation methodology that accurately bills a customer entity based on the actual direct and indirect costs to the customer entity and prohibits the subsidization of one customer entity's costs by another entity.*

*c. Has sufficient raised floor space, cooling, redundant power capacity, including uninterruptible power supply and backup power generation, to accommodate the computer processing platforms and support necessary to host the computing requirements of additional customer entities.*

*(3) STATE AGENCY DUTIES.—*

*(a) For the purpose of completing its work activities as described in subsection (1), each state agency shall provide to the Agency for Enterprise Information Technology all requested information and any other information relevant to the agency's ability to effectively transition its computer services into a primary data center. The agency shall also participate as required in workgroups relating to specific consolidation planning and implementation tasks as assigned by the Agency for Enterprise Information Technology and determined necessary to accomplish consolidation goals.*

*(b) Each state agency shall submit to the Agency for Enterprise Information Technology information relating to its data centers and computing facilities as required in instructions issued by July 1 of each year by the Agency for Enterprise Information Technology. The information required may include:*

*1. The amount of floor space used and available.*

*2. The numbers and capacities of mainframes and servers.*

*3. Storage and network capacity.*

*4. Amount of power used and the available capacity.*

*5. Estimated expenditures by service area, including hardware and software, numbers of full-time equivalent positions, personnel turnover, and position reclassifications.*

*6. A list of contracts in effect for the fiscal year, including, but not limited to, contracts for hardware, software and maintenance, including the expiration date, the contract parties, and the cost of the contract.*

*7. Service-level agreements by customer entity.*

*(c) The Chief Information Officer of each state agency shall assist the Agency for Enterprise Information Technology as required by the agency.*

*(4) AGENCY LIMITATIONS.—*

*(a) Unless authorized by the Legislature or as provided in paragraph (b), a state agency may not:*

*1. Create a new computing facility or data center, or expand the capability to support additional computer equipment in an existing computing facility or nonprimary data center;*

*2. Transfer existing computer services to a nonprimary data center or computing facility;*

*3. Terminate services with a primary data center or transfer services between primary data centers without giving written notice of intent to terminate or transfer services 180 days before such termination or transfer; or*

*4. Initiate a new computer service if it does not currently have an internal data center except with a primary data center.*

*(b) Exceptions to the limitations in paragraph (a) may be granted by the agency head of the Agency for Enterprise Information Technology if there is insufficient capacity in a primary data center to absorb the workload associated with agency computing services.*

*(5) RULES.—The Agency for Enterprise Information Technology is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this part relating to the state data center system including the primary data centers.*

Section 9. Section 282.203, Florida Statutes, is created to read:

*282.203 Primary data centers.—*

*(1) DATA CENTER DUTIES.—Each primary data center shall:*

*(a) Serve customer entities as an information-system utility.*

*(b) Cooperate with customer entities to offer, develop, and support the services and applications as defined and provided by the center's board of trustees and customer entities.*

*(c) Comply with rules adopted by the Agency for Enterprise Information Technology, pursuant to this section, and coordinate with the agency in the consolidation of data centers.*

*(d) Provide transparent financial statements to customer entities and the Agency for Enterprise Information Technology.*

*(e) Maintain the performance of the facility, which includes ensuring proper data backup, data backup recovery, an effective disaster recovery plan, and appropriate security, power, cooling and fire suppression, and capacity.*

*(f) Develop a business continuity plan and conduct a live exercise of the plan at least annually. The plan must be approved by the board and the Agency for Enterprise Information Technology.*

*(g) Enter into a service-level agreement with each customer entity to provide services as defined and approved by the board in compliance with rules of the Agency for Enterprise Information Technology. A service-level agreement may not have a term exceeding 3 years but may include an option to renew for up to 3 years contingent on approval by the board.*

*1. A service-level agreement, at a minimum, must:*

*a. Identify the parties and their roles, duties, and responsibilities under the agreement;*

*b. Identify the legal authority under which the service-level agreement was negotiated and entered into by the parties;*

*c. State the duration of the contractual term and specify the conditions for contract renewal;*

*d. Prohibit the transfer of computing services between primary data center facilities without at least 180 days' notice of service cancellation;*

*e. Identify the scope of work;*

*f. Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit;*

*g. Establish the services to be provided, the business standards that must be met for each service, the cost of each service, and the process by which the business standards for each service are to be objectively measured and reported;*

*h. Identify applicable funds and funding streams for the services or products under contract;*

*i. Provide a timely billing methodology for recovering the cost of services provided to the customer entity;*

*j. Provide a procedure for modifying the service-level agreement to address changes in projected costs of service;*

*k. Provide that a service-level agreement may be terminated by either party for cause only after giving the other party and the Agency for Enterprise Information Technology notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period; and*

*l. Provide for mediation of disputes by the Division of Administrative Hearings pursuant to s. 120.573.*

*2. A service-level agreement may include:*

*a. A dispute resolution mechanism, including alternatives to administrative or judicial proceedings;*

*b. The setting of a surety or performance bond for service-level agreements entered into with nonstate agency primary data centers, which may be designated by the Agency for Enterprise Information Technology; or*

*c. Additional terms and conditions as determined advisable by the parties if such additional terms and conditions do not conflict with the requirements of this section or rules adopted by the Agency for Enterprise Information Technology.*

*3. The failure to execute a service-level agreement within 60 days after service commencement shall, in the case of an existing customer entity, result in a continuation of the terms of the service-level agreement from the prior fiscal year, including any amendments that were formally proposed to the customer entity by the primary data center within the 3 months before service commencement, and a revised cost-of-service estimate. If a new customer entity fails to execute an agreement within 60 days after service commencement, the data center may cease services.*

*(h) Plan, design, establish pilot projects for, and conduct experiments with information technology resources, and implement enhancements in services if such implementation is cost-effective and approved by the board.*

*(i) Enter into a memorandum of understanding with the agency where the data center is administratively located which establishes the services to be provided by that agency to the data center and the cost of such services.*

*(2) BOARD OF TRUSTEES.—Each primary data center shall be headed by a board of trustees as defined in s. 20.03.*

*(a) The members of the board shall be appointed by the agency head or chief executive officer of the representative customer entities of the primary data center and shall serve at the pleasure of the appointing customer entity. The initial appointments of members shall be made as soon as practicable, but not later than July 1, 2008.*

*1. For each of the first two fiscal years that a center is in operation, membership shall be apportioned as provided in subparagraph 3. based*

*on projected customer entity usage rates for the fiscal operating year of the primary data center. However, at a minimum:*

*a. During the Southwood Shared Resource Center's first 2 operating years, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of Health, and the Department of Revenue must each have at least one trustee.*

*b. During the Northwood Shared Resource Center's first operating year, the Department of State and the Department of Education must each have at least one trustee.*

*2. After the second full year of operation, membership shall be apportioned as provided in subparagraph 3. based on the most recent estimate of customer entity usage rates for the prior year and a projection of usage rates for the first 9 months of the next fiscal year. Such calculation must be completed before the annual budget meeting held before the beginning of the next fiscal year so that any decision to add or remove board members can be voted on at the budget meeting and become effective on July 1 of the subsequent fiscal year.*

*3. Membership shall be apportioned using the following criteria:*

*a. Customer entities of a primary data center whose usage rate represents 4 to 14 percent of total usage shall have one trustee.*

*b. Customer entities of a primary data center whose usage rate represents 15 to 29 percent of total usage shall have two trustees.*

*c. Customer entities of a primary data center whose usage rate represents 30 to 49 percent of total usage shall have three trustees.*

*d. A customer entity of a primary data center whose usage rate represents 50 percent or more of total usage shall have four trustees.*

*e. A single trustee shall represent those customer entities that represent less than 4 percent of the total usage. The trustee shall be selected by a process determined by the board.*

*f. The executive director of the Agency for Enterprise Information Technology shall serve as a voting member of the board.*

*(b) Before July 1 of each year, each board of trustees of a primary data center shall elect a chair and a vice chair to a term of 1 year or until a successor is elected. The vice chair shall serve in the absence of the chair. The vice chair may not be from the same customer entity as the chair. The chair may be elected to serve one additional successive term.*

*(c) Members of the board representing customer entities who fail to timely pay for data center services do not have voting rights.*

*(d) The board shall take action by majority vote. If there is a tie, the chair shall be on the prevailing side.*

*(3) BOARD DUTIES.—Each board of trustees of a primary data center shall:*

*(a) Employ an executive director, pursuant to s. 20.05, who serves at the pleasure of the board. The executive director is responsible for the daily operation of the primary data center, ensuring compliance with all laws and rules regulating the primary data center, managing primary data center employees, and the performance of the primary data center.*

*(b) Establish procedures for the primary data center to ensure that budgeting and accounting procedures, cost-recovery methodologies, and operating procedures are in compliance with laws governing the state data center system, rules adopted by the Agency for Enterprise Information Technology, and applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.*

*(c) Monitor the operation of the primary data center to ensure compliance by the executive director and employees with laws and rules governing the primary data center, and ensure that staff members are accountable for the performance of the primary data center.*

*(d) Provide each customer entity with full disclosure concerning plans for new, additional, or reduced service requirements, including expected achievable service levels and performance metrics.*

*(e) Ensure the sufficiency and transparency of the primary data center financial information by:*

*1. Establishing policies that ensure that cost-recovery methodologies, billings, receivables, expenditure, budgeting, and accounting data are captured and reported timely, consistently, accurately, and transparently and, upon adoption of rules by the Agency for Enterprise Information Technology, are in compliance with such rules.*

*2. Requiring execution of service-level agreements by the data center and each customer entity for services provided by the data center to the customer entity.*

*3. Requiring cost recovery for the full cost of services, including direct and indirect costs. The cost-recovery methodology must ensure that no service is subsidizing another service without an affirmative vote of approval by the customer entity providing the subsidy.*

*4. Establishing special assessments to fund expansions based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.*

*5. Providing rebates to customer entities when revenues exceed costs and offsetting charges to those who have subsidized other customer entity costs based on actual prior year final expenditures. Rebates may be credited against future billings.*

*6. Approving all expenditures committing over $50,000 in a fiscal year.*

*7. Projecting costs and revenues at the beginning of the third quarter of each fiscal year through the end of the fiscal year. If in any given fiscal year the primary data center is projected to earn revenues that are below costs for that fiscal year after first reducing operating costs where possible, the board shall implement any combination of the following remedies to cover the shortfall:*

*a. The board may direct the primary data center to adjust current year chargeback rates through the end of the fiscal year to cover the shortfall. The rate adjustments shall be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.*

*b. The board may direct the primary data center to levy one-time charges on all customers entities to cover the shortfall. The one-time charges shall be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.*

*c. The customer entities represented by each board member may provide payments to cover the shortfall in proportion to the amounts each entity paid in the prior fiscal year.*

*(f) Meet as often as necessary, but not less than once per quarter, and hold the annual budget meeting between April 1 and June 30 of each year.*

*(g) Approve the portfolio of services offered by the data center.*

*(h) By July 1 of each year, submit to the Agency for Enterprise Information Technology, proposed cost-recovery mechanisms and rate structures for all customer entities for the fiscal year including the cost-allocation methodology for administrative expenditures and the calculation of administrative expenditures as a percent of total costs.*

*(i) Consider energy-efficient products and their total cost of ownership when replacing, upgrading, or expanding:*

*1. Data center facilities, including, but not limited to, environmental, power, and control systems; and*

*2. Data center network, storage, and computer equipment. If the total cost of ownership, including initial acquisition cost, is estimated to be equal to or lower than existing infrastructure, technical specifications for energy-efficient products should be incorporated into the replacement, upgrade, or expansion planning and acquisition process.*

Section 10. Section 282.204, Florida Statutes, is created to read:

*282.204 Northwood Shared Resource Center.—*

*(1) Beginning July 1, 2008, a workgroup shall be established within the Department of Children and Family Services for the purpose of developing a plan for converting its data center to a primary data center. The workgroup shall be chaired by a member appointed by the secretary of the department. Workgroup members may include other state agencies who will be customers of the data center during the 2009-2010 fiscal year. The workgroup shall include staff members who have appropriate financial and technical skills as determined by the chair of the workgroup. The conversion plan shall address organizational changes, personnel changes, cost-allocation plan changes, and any other changes necessary to effectively convert to a primary state data center capable of providing computer services as required by s. 282.201. The workgroup shall submit recommendations for facilitating the conversion to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008.*

*(2) Effective July 1, 2009, the Northwood Shared Resource Center is established within the Department of Children and Family Services for administrative purposes only. The center is designated as a primary data center and shall be a separate budget entity that is not subject to control, supervision, or direction of the department in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.*

*(3) The center shall be headed by a board of trustees as provided in s. 282.203, who shall comply with all requirements of that section related to the operation of the center and with the policies of the Agency for Enterprise Information Technology related to the design and delivery of enterprise information technology services.*

Section 11. Section 282.205, Florida Statutes, is created to read:

*282.205 Southwood Shared Resource Center.—*

*(1) Effective July 1, 2008, the Southwood Shared Resource Center is established within the Department of Management Services for administrative purposes only. The center is designated as a primary data center and shall be a separate budget entity that is not subject to control, supervision, or direction of the department in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.*

*(2) The Department of Management Services and the center shall identify resources associated with information technology functions which are not related to the support, management, and operation of the data center but which currently exist within the same budget entity as the data center. By October 1, 2008, the center shall submit a budget amendment to transfer resources associated with these functions to the Department of Management Services.*

*(3) The center shall be headed by a board of trustees as provided in s. 282.203, who shall comply with all requirements of that section related to the operation of the center and with the policies of the Agency for Enterprise Information Technology related to the design and delivery of enterprise information technology services.*

Section 12. Paragraph (c) of subsection (1) of section 282.315, Florida Statutes, is amended to read:

282.315 Agency Chief Information Officers Council; creation.—The Legislature finds that enhancing communication, consensus building, coordination, and facilitation with respect to issues concerning enterprise information technology resources are essential to improving the management of such resources.

(1) There is created an Agency Chief Information Officers Council to:

(c) Identify efficiency opportunities among state agencies and make recommendations for action to the Agency for Enterprise Information Technology. *This includes recommendations relating to the consolidation of agency data center and computing facilities, including operational policies, procedures and standards for the consolidated facilities, and procedures and standards for planning the migration to consolidated facilities.*

Section 13. Subsection (23) of section 287.057, Florida Statutes, is amended to read:

287.057 Procurement of commodities or contractual services.—

(23)~~(a)~~ The department, in consultation with the *Agency for Enterprise Information Technology* ~~State Technology Office~~ and the Comptroller, shall develop a program for online procurement of commodities and contractual services. To enable the state to promote open competition and to leverage its buying power, agencies shall participate in the online procurement program, and eligible users may participate in the program. Only vendors prequalified as meeting mandatory requirements and qualifications criteria *may* ~~shall be permitted to~~ participate in online procurement.

*(a)* The department, in consultation with the *agency* ~~State Technology Office~~, may contract for equipment and services necessary to develop and implement online procurement.

(b) The department, in consultation with the *agency* ~~State Technology Office~~, shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to administer the program for online procurement. The rules shall include, but not be limited to:

1. Determining the requirements and qualification criteria for prequalifying vendors.

2. Establishing the procedures for conducting online procurement.

3. Establishing the criteria for eligible commodities and contractual services.

4. Establishing the procedures for providing access to online procurement.

5. Determining the criteria warranting any exceptions to participation in the online procurement program.

(c)~~1.~~ The department may impose and shall collect all fees for the use of the online procurement systems.

*1.* The fees may be imposed on an individual transaction basis or as a fixed percentage of the cost savings generated. At a minimum, the fees must be set in an amount sufficient to cover the projected costs of the services, including administrative and project service costs in accordance with the policies of the department. ~~All fees and surcharges collected under this paragraph shall be deposited in the Operating Trust Fund as provided by law.~~

2. If the department contracts with a provider for online procurement, the department, pursuant to appropriation, shall compensate the provider from the fees after the department has satisfied all ongoing costs. The provider shall report transaction data to the department each month so that the department may determine the amount due and payable to the department from each vendor.

3. All fees that are due and payable to the state on a transactional basis or as a fixed percentage of the cost savings generated are subject to s. 215.31 and must be remitted within 40 days after receipt of payment for which the fees are due. For ~~any~~ fees that are not remitted within 40 days, the vendor shall pay interest at the rate established under s. 55.03(1) on the unpaid balance from the expiration of the 40-day period until the fees are remitted.

*4. All fees and surcharges collected under this paragraph shall be deposited in the Operating Trust Fund as provided by law.*

Section 14. Subsection (4) of section 445.011, Florida Statutes, is amended to read:

445.011 Workforce information systems.—

(4) Workforce Florida, Inc., shall coordinate development and implementation of workforce information systems with the *executive director of the Agency for Enterprise Information Technology* ~~state's Chief Information Officer in the State Technology Office~~ to ensure compatibility with the state's information system strategy and enterprise architecture.

Section 15. Subsection (2) and paragraphs (a) and (b) of subsection (4) of section 445.045, Florida Statutes, are amended to read:

445.045 Development of an Internet-based system for information technology industry promotion and workforce recruitment.—

(2) Workforce Florida, Inc., shall coordinate with the *Agency for Enterprise Information Technology* ~~State Technology Office~~ and the Agency for Workforce Innovation to ensure links, where feasible and appropriate, to existing job information websites maintained by the state and state agencies and to ensure that information technology positions offered by the state and state agencies are posted on the information technology website.

(4)(a) Workforce Florida, Inc., shall coordinate development and maintenance of the website under this section with the *executive director of the Agency for Enterprise Information Technology* ~~state's Chief Information Officer in the State Technology Office~~ to ensure compatibility with the state's information system strategy and enterprise architecture.

(b) Workforce Florida, Inc., may enter into an agreement with the *Agency for Enterprise Information Technology* ~~State Technology Office~~, the Agency for Workforce Innovation, or any other public agency with the requisite information technology expertise for the provision of design, operating, or other technological services necessary to develop and maintain the website.

Section 16. Paragraph (b) of subsection (18) of section 668.50, Florida Statutes, is amended to read:

668.50 Uniform Electronic Transaction Act.—

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.—

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the *Agency for Enterprise Information Technology* ~~state technology office~~, in consultation with the governmental agency, giving due consideration to security, may specify:

1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

Section 17. *All data center functions performed, managed, operated, or supported by state agencies with resources and equipment currently located in a state primary data center created by this act, excluding application development, shall be transferred to the primary data center and that agency shall become a full-service customer entity by July 1, 2010. All resources and equipment located in the primary data center shall be operated, managed, and controlled by the primary data center. Data center functions include, but are not limited to, all data center hardware, software, staff, contracted services, and facility resources performing data center management and operations, security, production control, backup and recovery, disaster recovery, system administration, database administration, system programming, job control, production control, print, storage, technical support, help desk, and managed services.*

*(1) To accomplish the transition, each state agency that is a customer entity of a primary data center shall:*

*(a) By October 1, 2009, submit a plan to the board of trustees of the appropriate primary data center describing costs and resources currently used to manage and maintain hardware and operating and support software housed at the primary data center, and a plan for transferring all resources allocated to data center functions to the primary data center. The plan shall:*

*1. Include the itemized expenditures for all of the related equipment and software in the previous 5 fiscal years.*

*2. Propose averages or weighted averages for transferring spending authority related to equipment and software based upon spending in the previous 5 fiscal years and projected needs for the upcoming 2 fiscal years.*

*(b) Submit with its 2010-2011 legislative budget request budget adjustments necessary to accomplish the transfers. These adjustments shall include budget requests to replace existing spending authority in the appropriations categories used to manage, maintain, and upgrade hardware, operating software, and support software with an amount in a single appropriation category to pay for the services of the primary data center.*

*(2) The board of trustees of each primary data center shall:*

*(a) Be responsible for the efficient transfer of resources in user agencies relating to the provision of full services and shall coordinate the legislative budget requests of the affected agencies.*

*(b) Include in its 2010-2011 legislative budget request additional budget authority to accommodate the transferred functions.*

*(c) Develop proposed cost-recovery plans for its customer entities at its annual budget meeting held before July 1, 2010, using the principles established in s. 282.203, Florida Statutes.*

Section 18. *(1) The computing requirements currently provided by the mainframe resources of the Department of Transportation and the Department of Highway Safety and Motor Vehicles, each hereafter referred to as a mainframe agency, at the Suwannee and Kirkman Data Centers, respectively, and the Southwood Shared Resource Center, shall, by the first weekend after July 1, 2009, be consolidated within the Southwood Shared Resource Center.*

*(a) Mainframe consolidation may be achieved through any combination of strategies that leverage the primary data center's economies of scale and negotiating strengths as the single provider of mainframe services to achieve savings for the state.*

*(b) The Agency for Enterprise Information Technology in coordination with the Southwood Shared Resource Center shall negotiate with vendors providing mainframe hardware, operating and support software, mainframe peripherals, and related services.*

*(2) For the purposes of this section, the term:*

*(a) "Application software" means software that directly collects and processes data, directly automates government business processes, or directly renders government data into information.*

*(b) "Mainframe peripherals" means devices that store data processed by a mainframe, devices exclusively used to facilitate communication with mainframes, printers that print mainframe jobs, and any device directly connected to a mainframe.*

*(c) "Operating software" means software used to manage and facilitate the use of hardware and other software.*

*(d) "Support software" means software that is not operating software or application software.*

*(3) By September 1, 2008, the Southwood Shared Resource Center and each mainframe agency shall establish a service-level agreement for the mainframe transition period. The service-level agreement shall, at a minimum, include:*

*(a) An estimate of the type and quantity of services that the mainframe agency expects to use for the applicable period, including commitments and any related impending changes.*

*(b) A process both parties shall use for notifying each other of any change to the scope, quantity, or conditions of the services provided.*

*(c) Quality of service commitments from the Southwood Shared Resource Center to the mainframe agency.*

*(4) On September 1, 2008, each mainframe agency, in conjunction with the Southwood Shared Resource Center, shall implement the following regarding the mainframes used by the agency:*

*(a) Identification of staff, including vendors, responsible for managing, operating, and supporting each mainframe and mainframe peripherals who shall report to and be supervised by managers of the Southwood Shared Resource Center.*

*(b) Identification of mainframe hardware, mainframe operating and support software, and mainframe peripherals owned by the mainframe agency which shall become the property of the Southwood Shared Resource Center.*

*(c) Decisions regarding usage, replacement, extensions, and upgrades shall be made by the Southwood Shared Resource Center.*

*(5) By October 1, 2008, each mainframe agency shall provide the Southwood Shared Resource Center with the following:*

*(a) Comprehensive itemized inventories of mainframe hardware, support software, and peripherals.*

*(b) A comprehensive itemized list and description of all contracts, including a copy of each contract, for mainframe hardware, operating and support software, peripherals, and services.*

*(6) By December 31, 2008, after relevant vendor negotiations have been completed, the Southwood Shared Resource Center shall submit a plan for implementing mainframe consolidation to the center's board of trustees, the Agency for Enterprise Information Technology, the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives. The plan must include:*

*(a) A description of the work effort, time, agency budget adjustments for the 2009-2010 fiscal year, and expenditures necessary to complete the consolidation.*

*(b) An estimate of the long-term savings resulting from consolidation.*

*(c) Any short-term costs or savings from consolidation.*

*(7) By April 30, 2009, the following shall occur:*

*(a) The Southwood Shared Resource Center shall implement a cost-allocation plan for the purpose of establishing prices and total estimated costs for the remainder of the current fiscal year and the first full year the mainframe services will be provided to the mainframe agency.*

*(b) The Southwood Shared Resource Center and the mainframe agencies shall establish service-level agreements.*

*(8) In order to establish the appropriate budget authority to implement the consolidation of mainframe services within the Southwood Shared Resource Center:*

*(a) As part of their 2009-2010 legislative budget request, each mainframe agency shall decrease full-time equivalent positions and transfer spending authority in the existing appropriation categories which would have been used to maintain and operate mainframe services to the appropriation category necessary to pay for mainframe services at the Southwood Shared Resource Center.*

*(b) As part of its 2009-2010 legislative budget request, the Southwood Shared Resource Center shall request full-time equivalent positions, not to exceed the number of positions deleted in the mainframe agencies, and spending authority necessary to deliver mainframe services to each mainframe agency.*

Section 19. *Section 282.20, Florida Statutes, is repealed.*

Section 20. *Subsection (2) of section 282.322, Florida Statutes, is repealed.*

Section 21. 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 the state data center system; amending s. 14.204, F.S.; revising the duties and responsibilities of the Agency for Enterprise Information Technology; authorizing the agency to adopt rules; amending s. 215.322, F.S.; requiring the Agency for Enterprise Information Technology to review an agency's request to accept credit, charge, or debit cards in payment of goods and services and make recommendations to the Chief Financial Officer; amending s. 216.235, F.S.; including the executive director of the Agency for Enterprise Information Technology on the State Innovation Committee; requiring the agency to evaluate innovative investment projects that involve information technology; amending s. 282.003, F.S.; revising a short title; amending s. 282.0041, F.S.; defining terms relating to information resource management; amending s. 282.0055, F.S.; conforming cross-references; amending s. 282.0056, F.S.; revising provisions relating to the Agency for Enterprise Information Technology's work plan; requiring an annual plan; requiring a public hearing on the plan; requiring the agency to annually report its achievements to the Governor and Cabinet and the Legislature; creating s. 282.201, F.S.; establishing a state data center system; providing legislative intent; providing the duties of the Agency for Enterprise Information Technology with respect to the system; providing responsibilities; providing state agency duties and limitations; authorizing the Agency for Enterprise Information Technology to adopt rules; creating s. 282.203, F.S.; establishing primary data centers; providing the duties of the center; providing that each center shall be headed by a board of trustees; providing for the membership of the board; providing for the duties of the board; creating s. 282.204, F.S.; providing for a workgroup to transition the Department of Children and Family Services into a primary data center; establishing the Northwood Shared Resource Center as a separate budget entity housed in the department for administrative purposes only by a certain date; providing for the center to be headed by a board of trustees; creating s. 282.205, F.S.; establishing the Southwood Shared Resource Center as a separate budget entity housed for administrative purposes only in the Department of Management Services; requiring the department and the center to identify information technology resources not related to the operation of the center; providing for the center to be headed by a board of trustees; amending s. 282.315, F.S.; revising the duties of the Agency Chief Information Officers Council with respect to the consolidation of computer services; amending s. 287.057, F.S.; requiring the Department of Management Services to consult with the Agency for Enterprise Information Technology with respect to procuring information technology commodities and contractual services; amending ss. 445.011, 445.045, and 668.50, F.S., relating to workforce information systems and the Uniform Electronic Transaction Act; clarifying the duties of the Agency for Enterprise Information Technology and the Department of Management Services; providing for the transfer of state agency data center resources to a primary data center; requiring the board of trustees of the primary data center to submit a plan relating to costs and resources; requiring user agencies to submit budget requests to accomplish the transfers; specifying the duties of the board of trustees of the data center; providing for the transfer of mainframe resources of the Department of Transportation and the Department of Highway Safety and Motor Vehicles to the Southwood Shared Resource Center; providing a timeframe for the transfer; requiring a service-level agreement for the transition and a plan; providing for the supervision of staff and ownership of resources; requiring budget amendments to redistribute resources between the state entities; repealing s. 282.20, F.S., relating to the Technology Resource Center; repealing s. 282.322(2), F.S., relating to a report concerning the special monitoring process for designated information resources management projects; providing an effective date.

The Conference Committee Report was read and on motion by Senator Carlton was adopted. **CS for SB 1892** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dean | Jones |
| Alexander | Deutch | Joyner |
| Aronberg | Diaz de la Portilla | Justice |
| Atwater | Dockery | King |
| Baker | Fasano | Lawson |
| Bennett | Gaetz | Lynn |
| Bullard | Garcia | Margolis |
| Carlton | Geller | Oelrich |
| Constantine | Haridopolos | Peaden |
| Crist | Hill | Posey |

| | | |
|---|---|---|
| Rich | Siplin | Webster |
| Ring | Storms | Wilson |
| Saunders | Villalobos | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for SB 1988**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 1988, same being:

An act relating to **Drivers' Licenses/Suspended, Revoked, or Canceled**; provides that a person commits a second-degree misdemeanor upon a first conviction and a first-degree misdemeanor upon a second or subsequent conviction of the same offense if the person's drivers' license or driving privilege is canceled, suspended, or revoked for offenses including but not limited to, failure to pay child support, failure to comply with a civil penalty, and designation as a habitual traffic offender, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 759941;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 122336 to CS for SB 1988 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large

Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large

Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (122336)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (10) is added to section 322.34, Florida Statutes, to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

*(10)(a) Notwithstanding any other provision of this section, if a person does not have a prior forcible felony conviction as defined in s. 776.08, the penalties provided in paragraph (b) apply if a person's driver's license or driving privilege is canceled, suspended, or revoked for:*

*1. Failing to pay child support as provided in s. 322.245 or s. 61.13016;*

*2. Failing to pay any other financial obligation as provided in s. 322.245 other than those specified in s. 322.245(1);*

*3. Failing to comply with a civil penalty required in s. 318.15;*

*4. Failing to maintain vehicular financial responsibility as required by chapter 324;*

*5. Failing to comply with attendance or other requirements for minors as set forth in s. 322.091; or*

*6. Having been designated a habitual traffic offender under s. 322.264(1)(d) as a result of suspensions of his or her driver's license or driver privilege for any underlying violation listed in subparagraphs 1.-5.*

*(b)1. Upon a first conviction for knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed in subparagraphs (a)1.-6., a person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.*

*2. Upon a second or subsequent conviction for the same offense of knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed in subparagraphs (a)1.-6., a person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

Section 2. *The Department of Highway Safety and Motor Vehicles shall conduct a study of the effectiveness of suspending a person's driver's license for any of the underlying violations as provided in section 1 of this act. The department, in consultation with the Office of Program Policy Analysis and Government Accountability and other affected entities, shall prepare a report that includes recommendations and describes the success of using alternative methods that are designed to increase compliance with these types of underlying violations. The department shall submit its findings and recommendations to the Governor and the Legislature by January 2, 2009.*

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to driving with a license that is suspended, revoked, or canceled; amending s. 322.34, F.S.; providing that a person commits a second-degree misdemeanor upon a first conviction and a first-degree misdemeanor upon a second or subsequent conviction of the same offense if the person commits certain specified violations of law; requiring the Department of Highway Safety and Motor Vehicles to study the effectiveness of suspending a person's driver's license for certain specified violations of law; requiring that the department, in consultation with the Office of Program Policy Analysis and Government Accountability and other affected entities, prepare a report and submit its findings and recommendations to the Governor and the Legislature by a specified date; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **CS for SB 1988** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—36

| | | |
|---|---|---|
| Mr. President | Diaz de la Portilla | Margolis |
| Alexander | Dockery | Oelrich |
| Aronberg | Fasano | Peaden |
| Atwater | Gaetz | Posey |
| Baker | Geller | Rich |
| Bennett | Hill | Ring |
| Bullard | Jones | Saunders |
| Carlton | Joyner | Siplin |
| Constantine | Justice | Storms |
| Crist | King | Webster |
| Dean | Lawson | Wilson |
| Deutch | Lynn | Wise |

Nays—3

| | | |
|---|---|---|
| Garcia | Haridopolos | Villalobos |

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON CS for CS for SB 2000**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on CS for CS for SB 2000, same being:

An act relating to **Correctional Policies**; creating the Sentencing Policy Advisory Council within the Legislature and Justice Reinvestment Subcommittee within the council, requiring the council to evaluate sentencing policy, sentencing practices, correctional policies, justice reinvestment initiatives, and laws affecting or applicable to sentencing or punishment, requiring that recommendations be consistent with specified goals;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 453157;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 779638 to CS for CS for SB 2000 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
*s/Paula Dockery*
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons
*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson
*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*

Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (779638)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 921.0019, Florida Statutes, is created to read:

*921.0019 Correctional Policy Advisory Council.—*

*(1) The Correctional Policy Advisory Council is created within the Legislature for the purpose of evaluating correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections, and for the purpose of making findings and recommendations on changes to such policy, reinvestment initiatives, and laws. The council shall serve in an advisory capacity to the Legislature and the Governor.*

*(2) A Justice Reinvestment Subcommittee within the Correctional Policy Advisory Council is created to review the availability of alternative sanctions for low-level drug and property offenders; the effectiveness of mental health and substance abuse diversion programs; the effectiveness of prison reentry practices; the feasibility of implementing a progressive sanctions system for probationers; the impact of jail overcrowding on the effectiveness of local alternative programs and sanctions; the effectiveness of supervision strategies; and the delivery of supervision and programs in neighborhoods that have a high proportion of supervised offenders.*

*(3) Any recommended change to correctional policies, justice reinvestment initiatives, or laws affecting or applicable to corrections must be consistent with the following goals:*

*(a) Protecting public safety, including, but not limited to, ensuring the incarceration of violent criminal offenders and nonviolent criminal offenders who commit repeated acts of criminal behavior and who have demonstrated an inability to comply with less restrictive penalties previously imposed for nonviolent criminal acts; and*

*(b) Providing for the most cost-effective and efficient use of correctional resources to the extent that such use is not in conflict with paragraph (a).*

*(4)(a) The council shall be composed of 10 members, consisting of two members of the Senate appointed by the President of the Senate; two members of the House of Representatives appointed by the Speaker of the House of Representatives; one representative of the victim advocacy profession, appointed by the Attorney General; the Attorney General or her or his designee; and the Secretary of Corrections or her or his designee. The following members shall be appointed by the Governor: one state attorney from a list of three nominees recommended by the Florida Prosecuting Attorneys Association; one public defender from a list of three nominees recommended by the Public Defenders Association; and one private attorney from a list of three nominees recommended by the President of The Florida Bar. The chair of the council shall be selected by the members for a term of 1 year.*

*(b) The chair of the council shall appoint members of the council to serve in a Justice Reinvestment Subcommittee to carry out the duties provided in subsection (2) and designate ex officio members from state or local agencies to serve as technical assistance advisors to the subcommittee.*

*(c) The council shall meet at least quarterly and other meetings may be called by the chair upon giving 7 days' notice to the public. The council may take public testimony.*

*(d) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses, which shall be paid by the appointing entity.*

*(e) The Office of Legislative Services shall provide administrative staff support for the council. The Legislature's Office of Economic and Demographic Research shall provide technical and substantive staff support. The council staff members shall consist of an executive director and any other staff member determined to be necessary to the completion of the council's duties, subject to appropriations. Upon request of the chair of the council or the executive director, the Office of Program Policy Analysis and Government Accountability, the Department of Corrections and any other state agency or department, and the Office of the State Courts Administrator shall assist the council in providing necessary data collection, analysis, and research.*

*(f) The chair of the council shall develop a technical assistance agreement with the Justice Center of the Council of State Governments to work with the Justice Reinvestment Subcommittee to accomplish the review of the effectiveness of correctional policies as provided in subsection (2). The agreement shall include, but not be limited to, procedures for the Justice Center of the Council of State Governments to access the data collection, analysis, and research capabilities of the agencies and offices listed in paragraph (e).*

*(5) On or before January 15 of each year, the council shall provide a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The council may provide the Legislature and the Governor with additional reports of findings and recommendations at any time it deems appropriate. The council may integrate the recommendations of the Justice Reinvestment Subcommittee in its report or may issue a separate report reflecting the findings of the subcommittee.*

*(6) The President of the Senate or the Speaker of the House may also direct the council to report by a certain date the council's findings and recommendations regarding an issue pertinent to correctional policies, justice reinvestment initiatives, or laws affecting or applicable to corrections.*

Section 2. *The Correctional Policy Advisory Council shall be abolished on July 1, 2011.*

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to correctional policies; creating s. 921.0019, F.S.; creating the Correctional Policy Advisory Council within the Legislature and a Justice Reinvestment Subcommittee within the Correctional Policy Advisory Council; requiring the council to evaluate correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections; requiring the subcommittee to review the effectiveness of correctional policies, including sanctioning programs for low-level drug and property offenders, mental health and substance abuse interventions, and reinvestment strategies to enhance the long-term effectiveness of correctional policies by reducing cost without negatively impacting public safety; requiring that recommendations be consistent with specified goals; providing membership of the council; providing for selection of the chair of the council; providing for an executive director and additional staff for the council, subject to appropriations; providing that members of the council serve without compensation, but are entitled to be reimbursed for per diem and travel expenses; requiring meetings and reports of findings and recommendations to the Governor and the Legislature; requiring the council's abolition by a specific date; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **CS for CS for SB 2000** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Deutch | Justice |
| Alexander | Diaz de la Portilla | King |
| Aronberg | Dockery | Lawson |
| Atwater | Fasano | Lynn |
| Baker | Gaetz | Margolis |
| Bennett | Garcia | Oelrich |
| Bullard | Geller | Peaden |
| Carlton | Haridopolos | Posey |
| Constantine | Hill | Rich |
| Crist | Jones | Ring |
| Dean | Joyner | Saunders |

| | | |
|---|---|---|
| Siplin | Villalobos | Wilson |
| Storms | Webster | Wise |

Nays—None

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By direction of the President the following Conference Committee Report was read:

**CONFERENCE COMMITTEE REPORT ON SB 2820**

The Honorable Ken Pruitt April 28, 2008
President of the Senate

The Honorable Marco Rubio
Speaker, House of Representatives

Dear Mr. President and Mr. Speaker:

Your Conference Committee on the disagreeing votes of the two houses on SB 2820, same being:

An act relating to **Juvenile Offenders/Residential Facilities**; expressing legislative intent that residential facilities have no more than 165 beds, providing an exception for campus-style settings that have more than one level of restrictiveness and other conditions, redefining "restrictiveness level" to require that residential facilities for juvenile offenders in low-risk, moderate-risk, and high-risk offender programs have no more than 165 residential beds each, etc.;

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the House recede from House Amendment 838227;

2. That the Senate and House of Representatives adopt the Conference Committee Amendment 761296 to SB 2820 attached hereto, and by reference made a part of this report.

*s/Lisa Carlton*
Chair
*s/JD Alexander*
*s/Carey Baker*
*s/Larcenia J. Bullard*
*s/Victor D. Crist*
*s/Charles Dean*
*s/Alex Diaz de la Portilla*
*s/Mike Fasano*
Rudy Garcia
*s/Mike Haridopolos*
*s/Dennis L. Jones*
*s/Charlie Justice*
*s/Alfred "Al" Lawson, Jr.*
*s/Gwen Margolis*
*s/Durell Peaden, Jr.*
*s/Nan H. Rich*
*s/Burt L. Saunders*
*s/Ronda Storms*
*s/Daniel Webster,* At Large
*s/Stephen R. Wise*

*s/Jeff Atwater*
Vice Chair
*s/Dave Aronberg*
*s/Michael S. "Mike" Bennett*
*s/Lee Constantine*
*s/M. Mandy Dawson*
*s/Ted Deutch*
Paula Dockery
*s/Don Gaetz*
Steven A. Geller, At Large
*s/Anthony C. "Tony" Hill, Sr.*
*s/Arthenia L. Joyner*
*s/James E. King, Jr.,* At Large
*s/Evelyn J. Lynn*
*s/Steve Oelrich*
*s/Bill Posey*
*s/Jeremy Ring*
*s/Gary Siplin*
J. Alex Villalobos
*s/Frederica S. Wilson*

Managers on the part of the Senate

*s/Ray Sansom*
Chair and At Large
*s/Kevin C. Ambler*
*s/Gary Aubuchon*
*s/Aaron P. Bean*
*s/Ellyn Setnor Bogdanoff,*
At Large
Debbie Boyd
Ronald A. Brisé
*s/Dean Cannon*
Charles S. "Chuck" Chestnut IV
*s/Larry Cretul,* At Large
Joyce Cusack, At Large
Chris Dorworth
Keith Fitzgerald
*s/Bill Galvano*
*s/Andy Gardiner*
Joseph A. "Joe" Gibbons

*s/Sandra "Sandy" Adams*
*s/Thad Altman*
*s/Frank Attkisson*
Loranne Ausley
Dorothy Bendross-Mindingall
*s/Marsha L. "Marty" Bowen,*
At Large
Mary Brandenburg
Susan Bucher
*s/Jennifer Carroll*
*s/Marti Coley*
*s/Faye B. Culp*
*s/Carl J. Domino*
*s/Greg Evers*
*s/Anitere Flores,* At Large
*s/Rene Garcia*
Dan Gelber, At Large
Audrey Gibson

*s/Hugh H. Gibson III*
*s/Michael J. Grant*
*s/Gayle B. Harrell*
*s/D. Alan Hays*
*s/Matt Hudson*
*s/Kurt Kelly*
Martin David "Marty" Kiar
*s/Paige Kreegel*
*s/John Legg*
Janet C. Long
Richard A. Machek
*s/Charles McBurney*
Matthew J. "Matt" Meadows
*s/Mitch Needelman*
*s/Pat Patterson*
*s/Juan-Carlos "J.C." Planas*
*s/Stephen L. Precourt*
Scott Randolph
Betty Reed
*s/Garrett Richter*
*s/Julio Robaina*
Dennis A. Ross
Franklin Sands, At Large
Ron Saunders, At Large
*s/Ron Schultz*
John P. "Jack" Seiler, At Large
Kelly Skidmore
Priscilla Taylor
*s/Nicholas R. "Nick" Thompson*
*s/Anthony Trey Traviesa*
Shelley Vana
*s/Will W. Weatherford*
*s/Juan C. Zapata,* At Large

*s/Richard "Rich" Glorioso*
Denise Grimsley
*s/Adam Hasner,* At Large
*s/Ed Homan*
*s/Dorothy L. Hukill*
*s/Will S. Kendrick*
*s/Dick Kravitz*
Rick Kriseman
*s/Marcelo Llorente*
*s/Carlos Lopez-Cantera*
*s/Stan Mayfield*
*s/Seth McKeel*
*s/Dave Murzin*
*s/Jimmy T. Patronis, Jr.*
*s/Joe H. Pickens*
*s/Ralph Poppell*
*s/William L. "Bill" Proctor*
*s/Ron Reagan*
Curtis B. Richardson
*s/David Rivera,* At Large
Yolly Roberson
Maria Lorts Sachs
Anthony P. "Tony" Sasso III
*s/Robert C. "Rob" Schenck*
Michael J. Scionti
*s/David Simmons,* At Large
Darren Soto
Geraldine F. "Geri" Thompson
Perry E. Thurston, Jr.
*s/Baxter G. Troutman*
James W. "Jim" Waldman
Trudi K. Williams

Managers on the part of the House

**Conference Committee Amendment (761296)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (6) of section 985.02, Florida Statutes, is amended to read:

985.02 Legislative intent for the juvenile justice system.—

(6) SITING OF FACILITIES.—

(a) The Legislature finds that timely siting and development of needed residential facilities for juvenile offenders is critical to the public safety of the citizens of this state and to the effective rehabilitation of juvenile offenders.

(b) It is the purpose of the Legislature to guarantee that such facilities are sited and developed within reasonable timeframes after they are legislatively authorized and appropriated.

(c) The Legislature further finds that such facilities must be located in areas of the state close to the home communities of the children they house in order to ensure the most effective rehabilitation efforts and the most intensive postrelease supervision and case management. *Residential facilities shall have no more than 165 beds each, including campus-style programs, unless those campus-style programs include more than one level of restrictiveness, provide multilevel education and treatment programs using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property.*

(d) It is the intent of the Legislature that all other departments and agencies of the state shall cooperate fully with the Department of Juvenile Justice to accomplish the siting of facilities for juvenile offenders.

The supervision, counseling, rehabilitative treatment, and punitive efforts of the juvenile justice system should avoid the inappropriate use of correctional programs and large institutions. The Legislature finds that detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition.

Section 2. Subsection (44) of section 985.03, Florida Statutes, is amended to read:

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

(44) "Restrictiveness level" means the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.601(10) and 985.721 apply to children placed in programs at any residential commitment level. The restrictiveness levels of 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) Low-risk residential.—Programs or program models at this commitment level are residential but may allow youth to have unsupervised access to the community. *Residential facilities shall have no more than 165 beds each, including campus-style programs, unless those campus-style programs include more than one level of restrictiveness, provide multilevel education and treatment programs using different treatment protocols, and have facilities that co-exist separately in distinct locations on the same property.* 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) 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. *Residential facilities shall have no more than 165 beds each, including campus-style programs, unless those campus-style programs include more than one level of restrictiveness, provide multilevel education and treatment programs using different treatment protocols, and have facilities that co-exist separately in distinct locations on the same property.* 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) High-risk residential.—Programs or program models at this commitment level are residential and do 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. *Residential facilities shall have no more than 165 beds each, including campus-style programs, unless those campus-style programs include more than one level of restrictiveness, provide multilevel education and treatment programs using different treatment protocols, and have facilities that co-exist separately in distinct locations on the same property.* 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) 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 not allow youth to have access to the community. Facilities are maximum-custody, hardware-secure with perimeter security fencing and locking doors. *Residential facilities shall have no more than 165 beds each, including campus-style programs, unless those campus-style programs include more than one level of restrictiveness, provide multilevel education and treatment programs using different treatment protocols, and have facilities that co-exist separately in distinct locations on the same property.* 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.

Section 3. This act shall take effect July 1, 2008.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to residential facilities for juvenile offenders; amending s. 985.02, F.S.; expressing the legislative intent that residential facilities for juvenile offenders have no more than 165 beds; providing an exception for campus-style settings that have more than one level of restrictiveness and other conditions; amending s. 985.03, F.S.; redefining the term "restrictiveness level" to require that residential facilities for juvenile offenders in low-risk, moderate-risk, and high-risk offender programs have no more than 165 residential beds each; providing an exception for campus-style settings that have more than one level of restrictiveness and other conditions; providing an effective date.

The Conference Committee Report was read and on motion by Senator Crist was adopted. **SB 2820** passed as amended by the Conference Committee Report and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

**SENATOR CARLTON PRESIDING**

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 526, with 1 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III*, Chief Clerk

**CS for CS for SB 526**—A bill to be entitled An act relating to interscholastic sports; providing a short title; amending s. 1006.15, F.S.; revising the criteria under which a charter school student may participate in interscholastic extracurricular activities of a public school; providing for certain private school students to participate in interscholastic sports at a public school under certain conditions; providing criteria; providing for a public school student to participate in interscholastic sports at another public school; providing criteria; providing an effective date.

**House Amendment 1 (003247)(with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. Subsection (8) is added to section 1006.15, Florida Statutes, to read:

1006.15 Student standards for participation in interscholastic *and intrascholastic* extracurricular student activities; regulation.—

*(8)(a) The Florida High School Athletic Association (FHSAA), in cooperation with the district school boards of Bradford County, Duval County, and Nassau County, shall facilitate a 2-year pilot program during the 2008-2009 and 2009-2010 academic years in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic sport at a public high school, a public middle school, or a 6-12 public school that is zoned for the physical address at which the student resides if:*

*1. The private school in which the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.*

*2. The private school student meets the guidelines for the conduct of the pilot program established by the FHSAA's board of directors and the participating district school boards. At a minimum, such guidelines shall provide:*

*a. A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.*

*b. Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance that apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.*

*(b) The parents of a private school student participating in a public school sport under this subsection are responsible for transporting their child to and from the public school at which the student participates. The private school the student attends, the public school at which the student participates in a sport, the district school board, and the FHSSA are exempt from civil liability arising from any injury that occurs to the student during such transportation.*

*(c) For each academic year, a private school student may only participate at the public school in which the student is first registered under sub-subparagraph (a)2.a. or makes himself or herself a candidate for an athletic team by engaging in a practice.*

*(d) The FHSAA and participating district school boards shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives:*

*1. A copy of the guidelines established under subparagraph (a)2. for the pilot program no later than August 1, 2008.*

*2. A report on the progress of the pilot program no later than January 1, 2010. The report shall include the number of students registered under sub-subparagraph (a)2.a., the number of students found eligible to participate in the pilot program, the number of students who transfer to the public schools at which the students participated under the pilot program, implementation issues experienced with the pilot program, and recommendations on how the pilot program may be improved and expanded to include other counties.*

*(e) This subsection shall stand repealed on June 30, 2010, unless reviewed and reenacted by the Legislature.*

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

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to interscholastic and intrascholastic sports; amending s. 1006.15, F.S.; requiring the Florida High School Athletic Association, in cooperation with specified district school boards, to facilitate a pilot program in which a middle school student or a high school student in a private school may participate in athletics at a public school; providing conditions for such participation; requiring the association's board of directors and the district school boards to establish guidelines for conducting the pilot program; specifying requirements and restrictions; requiring the association and district school boards to submit to the Governor and Legislature a copy of established guidelines and a report on the progress of the pilot program; providing for repeal of the pilot program unless reviewed and reenacted by the Legislature; providing an effective date.

On motion by Senator Wise, the Senate concurred in the House amendment.

**CS for CS for SB 526** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wise |
| Diaz de la Portilla | Lynn | |

Nays—1

Wilson

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1414, with 1 amendment, and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for SB 1414**—A bill to be entitled An act relating to supplemental educational services; amending s. 1008.331, F.S.; requiring the Department of Education to annually evaluate and grade supplemental educational services providers; specifying evaluation criteria; providing reporting requirements; providing an effective date.

**House Amendment 1 (549469)(with title amendment)**—Remove line 52 and insert: these sites for supplemental educational services. *A school district with a student population in excess of 300,000 may only charge a state-approved supplemental educational services provider facility rental fees for the actual hours that the classrooms are used for tutoring by the provider.*

And the title is amended as follows:

Remove line 3 and insert: amending s. 1008.331, F.S.; providing restrictions on charges by specified school districts for facility rental fees paid by a state-approved supplemental educational services provider; requiring the Department of

On motion by Senator Diaz de la Portilla, the Senate concurred in the House amendment.

**CS for SB 1414** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—32

| | | |
|---|---|---|
| Mr. President | Bullard | Diaz de la Portilla |
| Alexander | Carlton | Dockery |
| Aronberg | Constantine | Fasano |
| Atwater | Crist | Gaetz |
| Baker | Dean | Geller |
| Bennett | Deutch | Haridopolos |

| | | |
|---|---|---|
| Hill | Lynn | Saunders |
| Jones | Oelrich | Siplin |
| Justice | Peaden | Storms |
| King | Posey | Wise |
| Lawson | Ring | |

Nays—5

| | | |
|---|---|---|
| Garcia | Rich | Wilson |
| Margolis | Villalobos | |

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for CS for SB 2158, with 1 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for CS for SB 2158**—A bill to be entitled An act relating to money services businesses; changing the name of money transmitters to money services businesses; requiring licensure rather than registration; amending s. 560.103, F.S.; revising definitions; defining the terms "affiliated party," "branch office," "cashing," "compliance officer," "electronic instrument," "financial audit report," "foreign affiliate," "licensee," "location," "monetary value," "net worth," "outstanding money transmission," and "stored value"; amending s. 560.104, F.S.; revising provision providing exemptions from ch. 560, F.S.; amending s. 560.105, F.S.; revising provisions relating to the powers of the Office of Financial Regulation and the Financial Services Commission; amending s. 560.109, F.S.; revising provisions relating to examinations and investigations conducted by the office; requiring that the office periodically examine each licensee and each new licensee within 6 months after issuing a license; requiring the office to report certain violations to a criminal investigatory agency; requiring that the office annually report to the Legislature information concerning investigations and examinations and the total amount of fines assessed and collected; requiring records in a language other than English to be translated; creating s. 560.1091, F.S.; authorizing the office to contract with third parties to conduct examinations; authorizing the commission to adopt rules relating to who can conduct examinations and the rates charged; creating s. 560.1092, F.S.; requiring persons examined to pay the expenses of examination as set by rule of the commission; providing for the deposit of funds collected from licensees; requiring payment for travel expenses and living expenses and compensation for persons making the examinations from such funds or from funds budgeted for such purposes; creating s. 560.110, F.S.; providing for record retention by licensees; amending s. 560.111, F.S.; revising the list of prohibited acts by a money services business; amending s. 560.113, F.S.; providing for the establishment of a receivership or the payment of restitution by a person found to have violated ch. 560, F.S.; amending s. 560.114, F.S.; revising grounds for the disciplinary actions; creating s. 560.1141, F.S.; authorizing the commission to adopt disciplinary guidelines for imposing penalties for violations; providing for mitigating and aggravating circumstances; amending s. 560.115, F.S.; revising provisions relating to the voluntary surrender of a license; amending s. 560.116, F.S.; revising provisions relating to the granting of immunity for providing information about alleged violations of ch. 560, F.S.; amending s. 560.118, F.S.; revising provisions relating to required reports; deleting an exemption from the requirement to file an annual financial report; transferring, renumbering, and amending s. 560.119, F.S.; revising provisions providing for the deposit of fees and assessments; amending s. 560.121, F.S.; revising restriction on access to records held by a court or the Legislature; amending s. 560.123, F.S.; revising provisions relating to the Florida Control of Money Laundering in Money Services Business; creating s. 560.1235, F.S.; requiring a licensee to comply with state and federal anti-money laundering laws and rules; amending s. 560.124, F.S.; revising provisions relating to sharing reported information; amending s. 560.125, F.S.; revising provisions relating to unlicensed activity; amending s. 560.126, F.S.; revising provisions relating to certain notice requirements by a licensee; amending s. 560.127, F.S.; revising provisions relating to the control of a money services business; amending s. 560.128, F.S.; revising provisions relating to customer contacts and license display; amending s. 560.129, F.S.; revising provisions relating to the confidentiality of certain records; creating s. 560.140, F.S.; providing licensing standards for a money services business; creating s. 560.141, F.S.; providing for a license application; creating s. 560.142, F.S.; providing for license renewal; creating s. 560.143, F.S.; providing for license fees; amending s. 560.203, F.S.; revising the exemption from licensure for authorized vendors of a money services business; amending s. 560.204, F.S.; revising provisions relating to the requirement for licensure of money transmitters or sellers of payment instruments under part II of ch. 560, F.S.; amending s. 560.205, F.S.; providing additional requirements for a license application; amending s. 560.208, F.S.; revising provisions relating to the conduct of a licensee; creating s. 560.2085, F.S.; providing requirements for authorized vendors; amending s. 560.209, F.S.; revising provisions relating to a licensee's net worth and the filing of a corporate surety bond; requiring a financial audit report; increasing the upper limit of the bond; deleting the option of waiving the bond; amending s. 560.210, F.S.; revising provisions relating to permissible investments; amending s. 560.211, F.S.; revising provisions relating to required recordkeeping under part II of ch. 560, F.S.; amending s. 560.212, F.S.; revising provisions relating to licensee liability; amending s. 560.213, F.S.; revising provisions relating information that must be printed on a payment instrument; amending s. 560.303, F.S.; revising provisions relating to the licensure of check cashers under part II of ch. 560, F.S.; amending s. 560.304, F.S.; revising provisions relating to exemptions from licensure; limiting the exemption for the payment of instruments below a certain value and incidental to certain retail sales; amending s. 560.309, F.S.; revising provisions relating to the conduct of check cashers; providing additional requirements; amending s. 560.310, F.S.; revising requirements for licensee records; specifying the maintenance of identification records for certain customers; amending s. 560.402, F.S.; revising definitions relating to deferred presentment providers; amending s. 560.403, F.S.; revising provisions relating to the licensing requirements for deferred presentment providers; amending s. 560.404, F.S.; revising provisions relating to deferred presentment transactions; amending s. 560.405, F.S.; revising provisions relating to the redemption or deposit of a deferred presentment transaction; amending s. 560.406, F.S.; revising provisions relating to worthless checks; amending ss. 499.005, 499.0691, 501.95, 538.03, 896.101, 896.104, and 921.0022, F.S.; conforming cross-references; repealing s. 560.101, F.S., relating to a short title; repealing s. 560.102, F.S., relating to purpose and application; repealing s. 560.106, F.S., relating to chapter constructions; repealing s. 560.1073, F.S., relating to false or misleading statements or documents; repealing s. 560.108, F.S., relating to administrative enforcement guidelines; repealing s. 560.112, F.S., relating to disciplinary action procedures; repealing s. 560.117, F.S., relating to administrative fines; repealing s. 560.200, F.S., relating to a short title; repealing s. 560.202, F.S., relating to definitions; repealing s. 560.206, F.S., relating to the investigation of applicants; repealing s. 560.207, F.S., relating to registration; repealing s. 560.301, F.S., relating to a short title; repealing s. 560.302, F.S., relating to definitions; repealing s. 560.305, F.S., relating to application for registration; repealing s. 560.306, F.S., relating to standards; repealing s. 560.307, F.S., relating to fees; repealing s. 560.308, F.S., relating to registration; repealing s. 560.401, F.S., relating to a short title; repealing s. 560.407, F.S., relating to required records; providing an effective date.

**House Amendment 3 (711755)**—Between lines 1736 and 1737, insert:

*(g) License application fees for branch offices and authorized vendors are limited to $20,000 when such fees are assessed as a result of a change in controlling interest as defined in s. 560.127.*

On motion by Senator Storms, the Senate concurred in the House amendment.

**CS for CS for CS for SB 2158** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dean | Jones |
| Alexander | Deutch | Joyner |
| Aronberg | Diaz de la Portilla | Justice |
| Atwater | Dockery | King |
| Baker | Fasano | Lawson |
| Bennett | Gaetz | Lynn |
| Bullard | Garcia | Margolis |
| Carlton | Geller | Oelrich |
| Constantine | Haridopolos | Peaden |
| Crist | Hill | Posey |

| | | |
|---|---|---|
| Rich | Siplin | Webster |
| Ring | Storms | Wilson |
| Saunders | Villalobos | Wise |

Nays—None

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**THE PRESIDENT PRESIDING**

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB's 2860 and 1196, with 1 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for SB's 2860 and 1196**—A bill to be entitled An act relating to insurance; amending s. 215.5595, F.S.; revising legislative findings with respect to the Insurance Capital Build-Up Incentive Program and the appropriation of state funds for surplus notes issued by residential property insurers; revising the conditions and requirements for providing funds to insurers under the program; requiring a commitment by the insurer to meet minimum premium-to-surplus writing ratios for residential property insurance, for taking policies out of Citizens Property Insurance Corporation, and for maintaining certain surplus and reinsurance; establishing deadlines for insurers to apply for funds; authorizing the State Board of Administration to charge a late fee for payment of remittances; requiring the board to submit semiannual reports to the Legislature regarding the program; providing that amendments made by the act do not affect the terms of surplus notes approved prior to a specified date, but authorizing the board and an insurer to renegotiate such terms consistent with such amendments; requiring the board to transfer to Citizens Property Insurance Corporation any funds that have not been reserved for insurers approved to receive such funds under the program, from the funds that were appropriated from Citizens; requiring the board to transfer to Citizens interest and principal payments to Citizens Property Insurance Corporation for surplus note funded from appropriations from Citizens; requiring Citizens to deposit such funds into accounts from which appropriations were made; amending s. 542.20, F.S.; subjecting the business of insurance to the Florida Antitrust Act; limiting enforcement to actions by the Attorney General or a state attorney; providing exceptions; amending s. 624.3161, F.S.; authorizing the Office of Insurance Regulation to require an insurer to file its claims handling practices and procedures as a public record based on findings of a market conduct examination; amending s. 624.4211, F.S.; increasing the maximum amounts of administrative fines that may be imposed upon an insurer by the Office of Insurance Regulation for nonwillful and willful violations of an order or rule of the office or any provision of the Florida Insurance Code; authorizing the office to impose a fine for each day of noncompliance up to a maximum amount; providing factors to consider when determining the amount of the fine; creating s. 624.4213, F.S.; specifying requirements for submission of a document or information to the Office of Insurance Regulation or the Department of Financial Services in order for a person to claim that the document is a trade secret; requiring each page or portion to be labeled as a trade secret and be separated from non-trade secret material; requiring the submitting party to include an affidavit certifying certain information about the documents claimed to be trade secrets; requiring the office or department to notify persons who submit trade secret documents of any public-records request and the opportunity to file a court action to bar disclosure; specifying conditions for the office to retain or release such documents; requiring an award of attorney's fees against a person who certified a document as trade secret if a court or administrative tribunal finds that the document is not a trade secret; creating s. 624.4305, F.S.; requiring that an insurer planning to nonrenew more than a specified number of residential property insurance polices notify the Office of Insurance Regulation and obtain approval for such nonrenewals; specifying procedures for issuance of such notice; prohibiting the office from approving a nonrenewal plan unless it determines that the insurer has met certain conditions; prohibiting the office from requiring certain actions; limiting the ability of the office to disapprove or restrict nonrenewal of certain policies under certain conditions; amending s. 626.9521, F.S.; increasing the maximum fines that may be imposed by the office or department for nonwillful and willful violations of state law regarding unfair methods of competition and unfair or deceptive acts or practices related to insurance; amending s. 626.9541, F.S.; prohibiting an insurer from considering certain factors when evaluating or adjusting a property insurance claim; prohibiting an insurer from failing to pay undisputed amounts of benefits owed under a property insurance policy within a certain period; amending s. 627.062, F.S.; requiring that an insurer seeking a rate for property insurance that is greater than the rate most recently approved by the Office of Insurance Regulation make a "file and use" filing for all such rate filings made after a specified date; revising the factors the office must consider in reviewing a rate filing; prohibiting the Office of Insurance Regulation from disapproving as excessive a rate solely because the insurer obtained reinsurance covering a specified probably maximum loss; allowing the office to disapprove a rate as excessive within 1 year after the rate has been approved under certain conditions related to nonrenewal of policies by the insurer; requiring the Division of Administrative Hearings to expedite a hearing request by an insurer and for the administrative law judge to commence the hearing within a specified time; establishing time limits for entry of a recommended order, for parties to submit written exceptions, and for the office to enter a final order, subject to waiver by all parties; authorizing an insurer to request an expedited appellate review pursuant to the Florida Rules of Appellate Procedure; expressing legislative intent for an expedited appellate review; requiring an administrative law judge in a hearing on an insurance rate to grant a continuance if requested by a party due to receiving additional information that was not previously available; deleting provisions relating to the submission of a disputed rate filing, other than a rate filing for medical malpractice insurance, to an arbitration panel in lieu of an administrative hearing if the rate is filed before a specified date; requiring certain officers and the chief actuary of a property insurer to certify certain information as part of a rate filing, subject to the penalty of perjury; amending s. 627.0613, F.S.; deleting cross-references to conform to changes made by the act; amending s. 627.0628, F.S.; requiring that with respect to rate filings, insurers must use actuarial methods or models found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology; deleting the requirement for the Office of Insurance Regulation and the Consumer Advocate to have access to all assumptions of a hurricane loss model in order for a model that has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology to be admissible in a rate proceeding; deleting cross-references to conform to changes made by the act; amending s. 627.0629, F.S.; requiring that the Office of Insurance Regulation develop and make publicly available before a specified deadline a proposed method for insurers to establish windstorm mitigation premium discounts that correlate to the uniform home rating scale; requiring that the Financial Services Commission adopt rules before a specified deadline; requiring insurers to make rate filings pursuant to such method; authorizing the commission to make changes by rule to the uniform home grading scale and specify by rule the minimum required discounts, credits, or other rate differentials; requiring that such rate differentials be consistent with generally accepted actuarial principles and wind loss mitigation studies; amending s. 627.351, F.S., relating to Citizens Property Insurance Corporation; deleting a provision to conform to changes made in the act; deleting provisions defining the terms "homestead property" and "nonhomestead property"; deleting a provision providing for the classification of certain dwellings as "nonhomestead property"; deleting provisions making dwellings and condominium units that have a replacement cost above a specified value ineligible for coverage after a specified date; deleting requirements for certain properties to meeting building code plus requirements as a condition of eligibility for coverage by the corporation; requiring certain structures to have opening protections as a condition of eligibility for coverage after a specified date; requiring that the corporation cease issuance of new wind-only coverage beginning on a specified date; deleting outdated provisions requiring the corporation to submit a report for approval of offering multiperil coverage; revising threshold amounts of deficits incurred in a calendar year on which the decision to levy assessments and the types of such assessments are based; revising the formula used to calculate shares of assessments owed by certain assessable insureds; requiring that the board of governors make certain determinations before levying emergency assessments; providing the board of governors with discretion to set the amount of an emergency assessment within specified limits; requiring the board of governors to levy a Citizens policyholder surcharge under certain conditions; deleting a provision requiring the levy of an immediate assessment against certain policyholders under such conditions; requiring that funds collected from the levy of such surcharges be used for certain purposes; providing that such surcharges are not considered premium and are not subject to commissions, fees, or premium taxes; requiring that the failure to pay such surcharges be treated as failure to pay premium; requiring that the amount of any assessment or surcharge which exceeds the amount of deficits be remitted to and used by the

corporation for specified purposes; deleting provisions requiring that the plan of operation of the corporation provide for the levy of a Citizens policyholder surcharge if regular deficit assessments are levied as a result of deficits in certain accounts; deleting provisions related to the calculation, classification, and nonpayment of such surcharge; requiring that the corporation make an annual filing for each personal or commercial line of business it writes, beginning on a specified date; limiting the overall average statewide premium increase and the increase for an individual policyholder to a specified amount for rates established for certain policies during a specified period; deleting a provision requiring an insurer to purchase bonds that remain unsold; requiring the corporation to make its database of policies available to prospective take-out insurers under certain conditions; requiring the corporation to require agents to accept or decline appointment for any policy selected; requiring the corporation to notify the policyholder of certain information if an insurer selected his or her policy for a take-out offer but the policyholder's agent refused to be appointed; deleting provisions requiring the corporation to make certain confidential underwriting and claims files available to agents to conform to changes made by the act relating to ineligibility of certain dwellings; clarifying the right of certain parties to discover underwriting and claims file records; authorizing the corporation to release such records as it deems necessary; amending s. 627.4133, F.S.; increasing the required time period for an insurer to notify a policyholder of cancellation or nonrenewal of a personal lines or commercial residential property insurance policy; making conforming changes; creating s. 627.714, F.S.; requiring that personal lines residential policies be guaranteed renewable for a specified period if the dwelling meets certain requirements for wind-borne debris protection; creating s. 689.262, F.S.; requiring a purchaser of residential property to be presented with the windstorm mitigation rating of the structure; authorizing the Financial Services Commission to adopt rules; amending s. 817.2341, F.S.; providing for criminal penalties to be imposed under certain conditions against any person who willfully files a materially false or misleading rate filing; requiring Citizens Property Insurance Corporation to transfer funds to the General Revenue Fund if the losses due to a hurricane do not exceed a specified amount; requiring the board of governors of Citizens Property Insurance Corporation to make a reasonable estimate of such losses by a certain date; making nonrecurring appropriations for purposes of the Insurance Capital Build-Up Incentive Program established pursuant to s. 215.5595, F.S., as amended by the act; authorizing costs and fees to be paid from funds appropriated, subject to specified limitations; providing effective dates.

**House Amendment 1 (625745) (with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Homeowner's Bill of Rights Act."*

Section 2. Section 215.5595, Florida Statutes, is amended to read:

215.5595 Insurance Capital Build-Up Incentive Program.—

(1) Upon entering the *2008* ~~2006~~ hurricane season, the Legislature finds that:

(a) The losses in *this state* ~~Florida~~ from eight hurricanes in 2004 and 2005 have seriously strained the resources of both the voluntary insurance market and the public sector mechanisms of Citizens Property Insurance Corporation and the Florida Hurricane Catastrophe Fund.

~~(b) Private reinsurance is much less available and at a significantly greater cost to residential property insurers as compared to 1 year ago, particularly for amounts below the insurer's retention or retained losses that must be paid before reimbursement is provided by the Florida Hurricane Catastrophe Fund.~~

~~(c) The Office of Insurance Regulation has reported that the insolvency of certain insurers may be imminent.~~

~~(d) Hurricane forecast experts predict that the 2006 hurricane season will be an active hurricane season and that the Atlantic and Gulf Coast regions face an active hurricane cycle of 10 to 20 years or longer.~~

*(b)*~~(e)~~ *Citizens Property Insurance Corporation has over 1.2 million policies in force, has the largest market share of any insurer writing residential property insurer in the state, and faces the threat of a catastrophic loss that* ~~The number of cancellations or nonrenewals of residential property insurance policies is expected to increase and the number of new residential policies written in the voluntary market are likely to decrease, causing increased policy growth and exposure to the state insurer of last resort, Citizens Property Insurance Corporation, and threatening to increase the deficit of the corporation, currently estimated to be over $1.7 billion. This deficit~~ must be funded by assessments against insurers and policyholders, unless otherwise funded by the state. *The program has a substantial positive effect on the depopulation efforts of Citizens Property Insurance Corporation since companies participating in the program have removed over 199,000 policies from the corporation. Companies participating in the program have issued a significant number of new policies, thereby keeping an estimated 480,000 new policies out of the corporation.*

*(c)*~~(f)~~ Policyholders are subject to *high* ~~increased~~ premiums and assessments that are increasingly making such coverage unaffordable and that may force policyholders to sell their homes and even leave the state.

*(d)*~~(g)~~ The increased risk to the public sector and private sector *continues to pose* ~~poses~~ a serious threat to the economy of this state, particularly the building and financing of residential structures, and existing mortgages may be placed in default.

~~(h) The losses from 2004 and 2005, combined with the expectation that the increase in hurricane activity will continue for the foreseeable future, have caused both insurers and reinsurers to limit the capital they are willing to commit to covering the hurricane risk in Florida; attracting new capital to the Florida market is a critical priority; and providing a low-cost source of capital would enable insurers to write additional residential property insurance coverage and act to mitigate premium increases.~~

*(e)*~~(i)~~ Appropriating state funds to be *exchanged for* ~~used as~~ surplus notes *issued by* ~~for~~ residential property insurers, under conditions requiring the insurer to contribute additional private sector capital and to write a minimum level of premiums for residential hurricane coverage, is a valid and important public purpose.

*(f) Extending the Insurance Capital Build-up Incentive Program will provide an incentive for investors to commit additional capital to Florida's residential insurance market.*

(2) The purpose of this section is to provide *funds in exchange for* surplus notes *to be issued by* ~~to~~ new or existing authorized residential property insurers under the Insurance Capital Build-Up Incentive Program administered by the State Board of Administration, under the following conditions:

(a) The amount of *state funds provided in exchange for a* ~~the~~ surplus note *to* ~~for~~ any insurer ~~or insurer group~~, other than an insurer writing only manufactured housing policies, may not exceed $25 million or 20 percent of the total amount of funds *appropriated for* ~~available under~~ the program, whichever is greater. The amount of the surplus note for any insurer or insurer group writing residential property insurance covering only manufactured housing may not exceed $7 million.

(b) *On or after April 1, 2008,* the insurer must contribute an amount of new capital to its surplus which is at least equal to the amount of the surplus note and must apply to the board by *September 1, 2008* ~~July 1, 2006~~. If an insurer applies after *September 1, 2008* ~~July 1, 2006~~, but before June 1, *2009* ~~2007~~, the amount of the surplus note is limited to one-half of the new capital that the insurer contributes to its surplus, except that an insurer writing only manufactured housing policies is eligible to receive a surplus note of up to $7 million. For purposes of this section, new capital must be in the form of cash or cash equivalents as specified in s. 625.012(1).

(c) The insurer's surplus, new capital, and the surplus note must total at least $50 million, except for insurers writing residential property insurance covering only manufactured housing. The insurer's surplus, new capital, and the surplus note must total at least $14 million for insurers writing only residential property insurance covering manufactured housing policies as provided in paragraph (a).

(d) The insurer must commit to *increase its writings of residential property insurance, including the peril of wind, and to meet* ~~meeting~~ a minimum writing ratio of net written premium to surplus of at least *1:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 1.5:1 for the second calendar year, and* 2:1 for the *remaining* term of the surplus note . *Alternatively, the insurer must meet*

*a minimum writing ratio of gross written premium to surplus of at least 3:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 4.5:1 for the second calendar year, and 6:1 for the remaining term of the surplus note. The writing ratios*~~, which~~ shall be determined by the Office of Insurance Regulation and certified quarterly to the board. For this purpose, the term *"premium"* ~~"net written premium"~~ means ~~net written~~ premium for residential property insurance in *this state* ~~Florida~~, including the peril of wind, and "surplus" *means the new capital and surplus note* ~~refers to the entire surplus~~ of the insurer. *An insurer that makes an initial application after July 1, 2008, must also commit to writing at least 15 percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the state funds in exchange for the surplus note, which shall be determined by the Office of Insurance Regulation and certified annually to the board. The insurer must also commit to maintaining a level of surplus and reinsurance sufficient to cover in excess of its 1-in-100 year probable maximum loss, as determined by a hurricane loss model accepted by the Florida Commission on Hurricane Loss Projection Methodology, which shall be determined by the Office of Insurance Regulation and certified annually to the board.* If the *board determines that the insurer has failed to meet any of the requirements of this paragraph* ~~required ratio is not maintained~~ during the term of the surplus note, the board may increase the interest rate, accelerate the repayment of interest and principal, or shorten the term of the surplus note, subject to approval by the Commissioner of Insurance of payments by the insurer of principal and interest as provided in paragraph (f).

(e) If the requirements of this section are met, the board may approve an application by an insurer for *funds in exchange for issuance of* a surplus note, unless the board determines that the financial condition of the insurer and its business plan for writing residential property insurance in Florida places an unreasonably high level of financial risk to the state of nonpayment in full of the interest and principal. The board shall consult with the Office of Insurance Regulation and may contract with independent financial and insurance consultants in making this determination.

(f) The surplus note must be repayable to the state with a term of 20 years. The surplus note shall accrue interest on the unpaid principal balance at a rate equivalent to the 10-year U.S. Treasury Bond rate, require the payment only of interest during the first 3 years, and include such other terms as approved by the board. *The board may charge late fees up to 5 percent for late payments or other late remittances.* Payment of principal*,* ~~or~~ interest*, or late fees* by the insurer on the surplus note must be approved by the Commissioner of Insurance, who shall approve such payment unless the commissioner determines that such payment will substantially impair the financial condition of the insurer. If such a determination is made, the commissioner shall approve such payment that will not substantially impair the financial condition of the insurer.

(g) The total amount of funds available for the program is limited to the amount appropriated by the Legislature for this purpose. If the amount of surplus notes requested by insurers exceeds the amount of funds available, the board may prioritize insurers that are eligible and approved, with priority for funding given to insurers writing only manufactured housing policies, regardless of the date of application, based on the financial strength of the insurer, the viability of its proposed business plan for writing additional residential property insurance in the state, and the effect on competition in the residential property insurance market. Between insurers writing residential property insurance covering manufactured housing, priority shall be given to the insurer writing the highest percentage of its policies covering manufactured housing.

~~(h) The board may allocate portions of the funds available for the program and establish dates for insurers to apply for surplus notes from such allocation which are earlier than the dates established in paragraph (b).~~

*(h)*~~(i)~~ Notwithstanding paragraph (d), a newly formed manufactured housing insurer that is eligible for a surplus note under this section shall meet the premium to surplus ratio provisions of s. 624.4095.

*(i)*~~(j)~~ As used in this section, "an insurer writing only manufactured housing policies" includes:

1. A Florida domiciled insurer that begins writing personal lines residential manufactured housing policies in Florida after March 1, 2007, and that removes a minimum of 50,000 policies from Citizens Property Insurance Corporation without accepting a bonus, provided at least 25 percent of its policies cover manufactured housing. Such an insurer may count any funds above the minimum capital and surplus requirement that were contributed into the insurer after March 1, 2007, as new capital under this section.

2. A Florida domiciled insurer that writes at least 40 percent of its policies covering manufactured housing in Florida.

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

(a) "Board" means the State Board of Administration.

(b) "Program" means the Insurance Capital Build-Up Incentive Program established by this section.

(4) *The state funds provided to the insurer in exchange for the* ~~A~~ surplus note ~~provided to an insurer~~ pursuant to this section *are* ~~is~~ considered *borrowed surplus* ~~an asset~~ of the insurer pursuant to *s. 628.401* ~~s. 625.012~~.

(5) If an insurer that receives *funds in exchange for issuance of* a surplus note pursuant to this section is rendered insolvent, the state is a ~~class 3~~ creditor pursuant to s. 631.271 for the unpaid principal and interest on the surplus note.

(6) The board shall adopt rules prescribing the procedures, administration, and criteria for approving the *applications of insurers to receive funds in exchange for* issuance of surplus notes pursuant to this section, which may be adopted pursuant to the procedures for emergency rules of chapter 120. Otherwise, actions and determinations by the board pursuant to this section are exempt from chapter 120.

(7) The board shall invest and reinvest the funds appropriated for the program in accordance with s. 215.47 and consistent with board policy.

*(8) Costs and fees incurred by the board in administering this program, including fees for investment services, shall be paid from funds appropriated by the Legislature for this program, but are limited to 1 percent of the amount appropriated.*

*(9) The board shall submit a report to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year as to the results of the program and each insurer's compliance with the terms of its surplus note.*

*(10) The amendments to this section enacted in 2008 do not affect the terms or conditions of the surplus notes that were approved prior to January 1, 2008. However, the board may renegotiate the terms of any surplus note issued by an insurer prior to January 2008 under this program upon the agreement of the insurer and the board and consistent with the requirements of this section as amended in 2008.*

*(11) On January 15, 2009, the State Board of Administration shall transfer to Citizens Property Insurance Corporation any funds that have not been committed or reserved for insurers approved to receive such funds under the program, from the funds that were transferred from Citizens Property Insurance Corporation in 2008-2009 for such purposes.*

Section 3. Subsection (6) is added to section, 624.3161, Florida Statutes, to read:

624.3161 Market conduct examinations.—

*(6) Based on the findings of a market conduct examination that an insurer has exhibited a pattern or practice of willful violations of an unfair insurance trade practice related to claims-handling which caused harm to policyholders, as prohibited by s. 626.9541(1)(i), the office may order an insurer pursuant to chapter 120 to file its claims-handling practices and procedures related to that line of insurance with the office for review and inspection, to be held by the office for the following 36-month period. Such claims-handling practices and procedures are public records and are not trade secrets or otherwise exempt from the provisions of s. 119.07(1). As used in this section, "claims-handling practices and procedures" are any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide how and the manner in which an insured's claims for benefits under any policy will be processed.*

Section 4. Subsections (2) and (3) of section 624.4211, Florida Statutes, are amended to read:

624.4211 Administrative fine in lieu of suspension or revocation.—

(2) With respect to any nonwillful violation, such fine *may* ~~shall~~ not exceed *$5,000* ~~$2,500~~ per violation. In no event shall such fine exceed an aggregate amount of *$20,000* ~~$10,000~~ for all nonwillful violations arising out of the same action. *If* ~~When~~ an insurer discovers a nonwillful violation, the insurer shall correct the violation and, if restitution is due, make restitution to all affected persons. Such restitution shall include interest at 12 percent per year from either the date of the violation or the date of inception of the affected person's policy, at the insurer's option. The restitution may be a credit against future premiums due provided that ~~the~~ interest *accumulates* ~~shall accumulate~~ until the premiums are due. If the amount of restitution due to any person is $50 or more and the insurer wishes to credit it against future premiums, it shall notify such person that she or he may receive a check instead of a credit. If the credit is on a policy *that* ~~which~~ is not renewed, the insurer shall pay the restitution to the person to whom it is due.

(3) With respect to any knowing and willful violation of a lawful order or rule of the office or commission or a provision of this code, the office may impose a fine upon the insurer in an amount not to exceed *$40,000* ~~$20,000~~ for each such violation. In no event shall such fine exceed an aggregate amount of *$200,000* ~~$100,000~~ for all knowing and willful violations arising out of the same action. In addition to such fines, *the* ~~such~~ insurer shall make restitution when due in accordance with ~~the provisions of~~ subsection (2).

Section 5. Section 624.4213, Florida Statutes, is created to read:

*624.4213 Trade secret documents.—*

*(1) If any person who is required to submit documents or other information to the office or department pursuant to the Insurance Code or by rule or order of the office, department, or commission claims that such submission contains a trade secret, such person may file with the office or department a notice of trade secret as provided in this section. Failure to do so constitutes a waiver of any claim by such person that the document or information is a trade secret.*

*(a) Each page of such document or specific portion of a document claimed to be a trade secret must be clearly marked as "trade secret."*

*(b) All material marked as a trade secret must be separated from all non-trade secret material, such as being submitted in a separate envelope clearly marked as "trade secret."*

*(c) In submitting a notice of trade secret to the office or department, the submitting party must include an affidavit certifying under oath to the truth of the following statements concerning all documents or information that are claimed to be trade secrets:*

*1. [I consider/My company considers] this information a trade secret that has value and provides an advantage or an opportunity to obtain an advantage over those who do not know or use it.*

*2. [I have/My company has] taken measures to prevent the disclosure of the information to anyone other that those who have been selected to have access for limited purposes, and [ I intend/my company intends] to continue to take such measures.*

*3. The information is not, and has not been, reasonably obtainable without [my/our] consent by other persons by use of legitimate means.*

*4. The information is not publicly available elsewhere.*

*(2) If the office or department receives a public-records request for a document or information that is marked and certified as a trade secret, the office or department shall promptly notify the person that certified the document as a trade secret. The notice shall inform such person that he or she or his or her company has 30 days following receipt of such notice to file an action in circuit court seeking a determination whether the document in question contains trade secrets and an order barring public disclosure of the document. If that person or company files an action within 30 days after receipt of notice of the public-records request, the office or department may not release the documents pending the outcome of the legal action. The failure to file an action within 30 days constitutes a waiver of any claim of confidentiality and the office or department shall release the document as requested.*

*(3) The office or department may disclose a trade secret, together with the claim that it is a trade secret, to an officer or employee of another governmental agency whose use of the trade secret is within the scope of his or her employment.*

Section 6. Section 624.4305, Florida Statutes, is created to read:

*624.4305 Nonrenewal of residential property insurance policies.—Any insurer planning to nonrenew more than 10,000 residential property insurance policies in this state within a 12-month period shall give notice in writing to the Office of Insurance Regulation for informational purposes 90 days before the issuance of any notices of nonrenewal. The notice provided to the office must set forth the insurer's reasons for such action, the effective dates of nonrenewal, and any arrangements made for other insurers to offer coverage to affected policyholders.*

Section 7. Subsection (2) of section 626.9521, Florida Statutes, is amended to read:

626.9521 Unfair methods of competition and unfair or deceptive acts or practices prohibited; penalties.—

(2) Any person who violates any provision of this part shall be subject to a fine in an amount not greater than *$5,000* ~~$2,500~~ for each nonwillful violation and not greater than *$40,000* ~~$20,000~~ for each willful violation. Fines under this subsection *imposed against an insurer* may not exceed an aggregate amount of *$20,000* ~~$10,000~~ for all nonwillful violations arising out of the same action or an aggregate amount of *$200,000* ~~$100,000~~ for all willful violations arising out of the same action. The fines authorized by this subsection may be imposed in addition to any other applicable penalty.

Section 8. Paragraph (i) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(i) Unfair claim settlement practices.—

1. Attempting to settle claims on the basis of an application, when serving as a binder or intended to become a part of the policy, or any other material document which was altered without notice to, or knowledge or consent of, the insured;

2. A material misrepresentation made to an insured or any other person having an interest in the proceeds payable under such contract or policy, for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract or policy on less favorable terms than those provided in, and contemplated by, such contract or policy; or

3. Committing or performing with such frequency as to indicate a general business practice any of the following:

a. Failing to adopt and implement standards for the proper investigation of claims;

b. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

c. Failing to acknowledge and act promptly upon communications with respect to claims;

d. Denying claims without conducting reasonable investigations based upon available information;

e. Failing to affirm or deny full or partial coverage of claims, and, as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the claim is being investigated, upon the written request of the insured within 30 days after proof-of-loss statements have been completed;

f. Failing to promptly provide a reasonable explanation in writing to the insured of the basis in the insurance policy, in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement;

g. Failing to promptly notify the insured of any additional information necessary for the processing of a claim; or

h. Failing to clearly explain the nature of the requested information and the reasons why such information is necessary.

*4. Failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 90 days after an insurer receives notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by an act of God, prevented by the impossibility of performance, or due to actions by the insured or claimant that constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed.*

Section 9. Section 627.0612, Florida Statutes, is amended to read:

627.0612 Administrative proceedings in rating determinations.—

*(1)* In any proceeding to determine whether rates, rating plans, or other matters governed by this part comply with the law, the appellate court shall set aside a final order of the office if the office has violated s. 120.57(1)(k) by substituting its findings of fact for findings of an administrative law judge which were supported by competent substantial evidence.

*(2) In an administrative hearing to determine whether an insurer's rates, rating schedules, rating manuals, premium credits, discount schedules, surcharge schedules, or changes thereto, for property insurance comply with the law, in addition to any other findings of fact, findings on the following matters shall be considered findings of fact:*

*(a) Whether a factor or factors used in a rate filing or applied by the office is consistent with standard actuarial techniques or practices or are otherwise based on reasonable actuarial judgment.*

*(b) Whether a factor for underwriting profit and contingencies is reasonable or excessive.*

*(c) Whether the cost of reinsurance is reasonable or excessive.*

*(3) In an administrative hearing to determine whether an insurer's rates, rating schedules, rating manuals, premium credits, discount schedules, surcharge schedules, or changes thereto, for property insurance comply with the law, a recommended order may be entered that approves, modifies, or rejects the requested change. A recommended order modifying the requested rate change shall recommend such change as is supported by the record in the case.*

Section 10. Paragraphs (a), (b), and (g) of subsection (2), subsection (6), and paragraph (a) of subsection (9) of section 627.062, Florida Statutes, are amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office under one of the following procedures except as provided in subparagraph 3.:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).

3. For all *property insurance* filings made or submitted after January 25, 2007, but before December 31, *2009* ~~2008~~, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. ~~This subparagraph applies to property insurance only.~~ For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered to be property coverages.

(b) Upon receiving a rate filing, the office shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules *using* ~~utilizing~~ reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used *to calculate* ~~in the calculation of~~ insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus *may* ~~shall~~ not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance. *The office shall not disapprove a rate as excessive solely due to the insurer having obtained catastrophic reinsurance to cover the insurer's estimated 250-year probable maximum loss or any lower level of loss.*

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

*11. Projected hurricane losses, if applicable, which must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.*

*12.*~~11.~~ A reasonable margin for underwriting profit and contingencies. ~~For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.~~

*13.*~~12.~~ The cost of medical services, if applicable.

*14.*~~13.~~ Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

(6)*(a) If an insurer requests an administrative hearing pursuant to s. 120.57 related to a rate filing under this section, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence the hearing within 30 days after the receipt of the formal request and shall enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. The office shall enter a final order within 30 days after the entry of the recommended order. The provisions of this paragraph may be waived upon stipulation of all parties.*

*(b) Upon entry of a final order, the insurer may request a expedited appellate review pursuant to the Florida Rules of Appellate Procedure. It is the intent of the Legislature that the First District Court of Appeal grant an insurer's request for an expedited appellate review.*

~~(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. However, the arbitration option provision in this subsection does not apply to a rate filing that is made on or after the effective date of this act until January 1, 2009. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(9)(a) ~~Effective March 1, 2007,~~ The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

1. The signing officer and actuary have reviewed the rate filing;

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in paragraph (2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

4. Based on the signing officer's and actuary's knowledge, the rate filing reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

Section 11. Paragraph (c) of subsection (1) and subsection (3) of section 627.0628, Florida Statutes, are amended, and paragraph (e) is added to subsection (1) of that section, to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and, subject to paragraph (3)(c), *must* ~~may~~ be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

*(e) The Legislature finds that the authority to take final agency action with respect to insurance ratemaking is vested in the Office of Insurance Regulation and the Financial Services Commission, and that the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology do not constitute final agency action or statements of general applicability that implement, interpret, or prescribe law or policy; accordingly, chapter 120 does not apply to the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology.*

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(a) The commission shall consider any actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy of or reliability of the hurricane loss projections used in residential property insurance rate filings. The commission shall, from time to time, adopt findings as to the accuracy or reliability of particular methods, principles, standards, models, or output ranges.

*(b) The commission shall consider any actuarial methods, principles, standards, or models that have the potential for improving the accuracy of or reliability of projecting probable maximum loss levels. The commission shall adopt findings as to the accuracy or reliability of particular methods, principles, standards, or models related to probable maximum loss calculations.*

*(c)*~~(b)~~ In establishing reimbursement premiums for the Florida Hurricane Catastrophe Fund, the State Board of Administration must, to the extent feasible, employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable.

*(d)*~~(c)~~ With respect to a rate filing under s. 627.062, an insurer *shall* ~~may~~ employ *and may not modify or adjust* actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable *in determining* ~~to determine~~ hurricane loss factors for use in a rate filing under s. 627.062. *An insurer shall employ and may not modify or adjust models found by the commission to be accurate or reliable in determining probable maximum loss levels pursuant to paragraph (b) with respect to a rate filing under s. 627.062 made more than 60 days after the commission has made such findings.* ~~Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the consumer advocate appointed pursuant to s. 627.0613 have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 or in any arbitration proceeding under s. 627.062(6), the hearing officer, judge, or arbitration panel may determine whether the office and the consumer advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.~~

*(e)*~~(d)~~ The commission shall adopt revisions to previously adopted actuarial methods, principles, standards, models, or output ranges at least annually.

*(f)*~~(e)~~1. A trade secret, as defined in s. 812.081, that is used in designing and constructing a hurricane loss model and that is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 12. Subsection (1) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1)*(a)* It is the intent of the Legislature that insurers must provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. All insurance companies must make a rate filing which includes the credits, discounts, or other rate differentials or reductions in deductibles by February 28, 2003. By July 1, 2007, the office shall reevaluate the discounts, credits, other rate differentials, and appropriate reductions in deductibles for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code, based upon actual experience or any other loss relativity studies available to the office. The office shall determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation, which may be used by insurers in rate filings.

*(b) By February 1, 2011, the Office of Insurance Regulation, in consultation with the Department of Financial Services and the Department of Community Affairs, shall develop and make publicly available a proposed method for insurers to establish discounts, credits, or other rate differentials for hurricane mitigation measures which directly correlate to the numerical rating assigned to a structure pursuant to the uniform home grading scale adopted by the Financial Services Commission pursuant to s. 215.55865, including any proposed changes to the uniform home grading scale. By October 1, 2011, the commission shall adopt rules requiring insurers to make rate filings for residential property insurance which revise insurers' discounts, credits, or other rate differentials for hurricane mitigation measures so that such rate differentials correlate directly to the uniform home grading scale. The rules may include such changes to the uniform home grading scale as the commission determines are necessary, and may specify the minimum required discounts, credits, or other rate differentials. Such rate differentials must be consistent with generally accepted actuarial principles and wind-loss mitigation studies. The rules shall allow a period of at least 2 years after the effective date of the revised mitigation discounts, credits, or other rate differentials for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer shall continue to apply the mitigation credit that was applied immediately prior to the effective date of the revised credit.*

Section 13. Subsection (2) and paragraphs (a), (b), (c), (m), (p), (w), (dd), (ee), and (ff) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners' multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The

commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

(II) Effective July 1, 2002, the association shall operate subject to the supervision and approval of a board of governors who are the same individuals that have been appointed by the Treasurer to serve on the board of governors of the Citizens Property Insurance Corporation.

(III) The plan of operation shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment of a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

(IV) A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

(V) There shall be no credits or relief from apportionment to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

b. Assessments to pay deficits in the association under this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for paying regular assessments and collecting emergency assessments for any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b., the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication,

and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of $20 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III).

4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not for an emergency assessment collected from policyholders under sub-sub-subparagraph 2.d.(III), if, in the opinion of the commissioner, payment of such regular assessment would endanger or impair the solvency of the member insurer. In the event a regular assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

b. ~~The association may require arbitration of a rate filing under s. 627.062(6).~~ It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage.

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(I) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(p)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness issued or incurred by the association or any other entity created under this subsection.

7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

a. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the association created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the association shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the association under the laws of this state or any other applicable laws.

b. No such proceeding shall relieve the association of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or any other rights, revenues, or other assets of the association pledged.

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

d. As used in this subsection, the term "financing documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation of the association related to such bonds or indebtedness.

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. It is the public purpose of this subsection to ensure the existence of an orderly market for property insurance for Floridians and Florida businesses. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the

voluntary market but are unable to do so. The Legislature intends by this subsection that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, Citizens Property Insurance Corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that Citizens Property Insurance Corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

~~3. For the purposes of this subsection, the term "homestead property" means:~~

~~a. Property that has been granted a homestead exemption under chapter 196;~~

~~b. Property for which the owner has a current, written lease with a renter for a term of at least 7 months and for which the dwelling is insured by the corporation for $200,000 or less;~~

~~c. An owner-occupied mobile home or manufactured home, as defined in s. 320.01, which is permanently affixed to real property, is owned by a Florida resident, and has been granted a homestead exemption under chapter 196 or, if the owner does not own the real property, the owner certifies that the mobile home or manufactured home is his or her principal place of residence;~~

~~d. Tenant's coverage;~~

~~e. Commercial lines residential property; or~~

~~f. Any county, district, or municipal hospital; a hospital licensed by any not-for-profit corporation qualified under s. 501(c)(3) of the United States Internal Revenue Code; or a continuing care retirement community that is certified under chapter 651 and that receives an exemption from ad valorem taxes under chapter 196.~~

~~4. For the purposes of this subsection, the term "nonhomestead property" means property that is not homestead property.~~

*3.*~~5.~~ Effective January 1, 2009, a personal lines residential structure that has a dwelling replacement cost of *$2* ~~$1~~ million or more, or a single condominium unit that has a combined dwelling and content replacement cost of *$2* ~~$1~~ million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2008, may continue to be covered by the corporation until the end of the policy term. However, such dwellings that are insured by the corporation and become ineligible for coverage due to the provisions of this subparagraph may reapply and obtain coverage ~~in the high-risk account and be considered "nonhomestead property"~~ if the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers. If such conditions are met, the dwelling may be insured by the corporation for up to 3 years, after which time the dwelling is ineligible for coverage. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation prior to being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

~~6. For properties constructed on or after January 1, 2009, the corporation may not insure any property located within 2,500 feet landward of the coastal construction control line created pursuant to s. 161.053 unless the property meets the requirements of the code plus building standards developed by the Florida Building Commission.~~

*4.*~~7.~~ It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It also is intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

*5.*~~8.~~ Effective January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of $750,000 or more is not eligible for coverage by the corporation unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area. A residential structure shall be deemed to comply with the requirements of this subparagraph if it has shutters or opening protections on all openings and if such opening protections complied with the Florida Building Code at the time they were installed. *Effective January 1, 2010, for personal lines residential property insured by the corporation that is located in the wind-borne debris region and has an insured value on the structure of $500,000 or more, a prospective purchaser of any such residential property must be provided by the seller a written disclosure that contains the structure's windstorm mitigation rating based on the uniform home grading scale adopted under s. 215.55865. Such rating shall be provided to the purchaser at or before the time the purchaser executes a contract for sale and purchase.*

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas;

(II) A commercial lines account for commercial residential and commercial nonresidential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and

renewed by the corporation that provide coverage for basic property perils on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. ~~Subject to the approval of a business plan by the Financial Services Commission and Legislative Budget Commission as provided in this sub-sub-subparagraph, but no earlier than March 31, 2007,~~ The corporation may offer policies that provide multiperil coverage and the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. It is the goal of the Legislature that there would be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who then obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. ~~By March 1, 2007, the corporation shall prepare and submit for approval by the Financial Services Commission and Legislative Budget Commission a report detailing the corporation's business plan for issuing multiperil coverage in the high-risk account. The business plan shall be approved or disapproved within 30 days after receipt, as submitted or modified and resubmitted by the corporation. The business plan must include: the impact of such multiperil coverage on the corporation's financial resources, the impact of such multiperil coverage on the corporation's tax-exempt status, the manner in which the corporation plans to implement the processing of applications and policy forms for new and existing policyholders, the impact of such multiperil coverage on the corporation's ability to deliver customer service at the high level required by this subsection, the ability of the corporation to process claims, the ability of the corporation to quote and issue policies, the impact of such multiperil coverage on the corporation's agents, the impact of such multiperil coverage on the corporation's existing policyholders, and the impact of such multiperil coverage on rates and premium.~~ The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association and of the accounts specified in sub-sub-subparagraphs a.(I) and (II) may have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. No part of the income of the corporation may inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. *After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph i.,* when the *remaining projected* deficit incurred in a particular calendar year is not greater than *6* ~~10~~ percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (p) and assessable insureds.

b. *After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph i.,* when the *remaining projected* deficit incurred in a particular calendar year exceeds *6* ~~10~~ percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (p) and on assessable insureds in an amount equal to the greater of *6* ~~10~~ percent of the deficit or *6* ~~10~~ percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). ~~notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (e)10. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i.~~ Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., *plus*

*the amount that is expected to be recovered through surcharges under sub-subparagraph i., as to the remaining projected deficit* the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may*, at the discretion of the board of governors, be less than but may* not exceed the greater of 10 percent of the amount needed to cover the ~~original~~ deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the ~~original~~ deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (p), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a., sub-subparagraph b., or subparagraph (p)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

f. As used in this subsection for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

g. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and shall report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

h. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for regular assessments and emergency assessments levied under this subparagraph on assessable insureds and shall assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

i. If a deficit is incurred in any account in 2008 or thereafter, the board of governors shall levy *a Citizens policyholder surcharge* ~~an immediate assessment against the premium of each nonhomestead property policyholder in all accounts of the corporation, as a uniform percentage of the premium of the policy of up to 10 percent of such premium, which funds shall be used to offset the deficit. If this assessment is insufficient to eliminate the deficit, the board of governors shall levy an additional assessment~~ against all policyholders of the corporation *for a 12-month period*, which shall be collected at the time of issuance or renewal of a policy, as a uniform percentage of the premium for the policy of up to *15* ~~10~~ percent of such premium, which funds shall be used to ~~further~~ offset the deficit. *Citizens policyholder surcharges under this sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes. However, failure to pay such surcharges shall be treated as failure to pay premium* .

j. *If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation, as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.* ~~The board of governors shall maintain separate accounting records that consolidate data for nonhomestead properties, including, but not limited to, number of policies, insured values, premiums written, and losses. The board of governors shall annually report to the office and the Legislature a summary of such data.~~

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. that contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for

eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

(II) "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

b. The corporation may enter into quota share primary insurance agreements with authorized insurers at corporation coverage levels of 90 percent and 50 percent.

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (p)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board of governors are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 9. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison shall be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage in the high-risk account, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant shall be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

8. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the corporation shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

9. Must provide that the corporation shall make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.

~~10. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.~~

*10.*~~11.~~ The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation, except as otherwise provided in this subsection.

*11.*~~12.~~ Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

*12.*~~13.~~ May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

*13.*~~14.~~ Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (p)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

*14.*~~15.~~ Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

*15.*~~16.~~ Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows at a minimum for quarterly and semiannual payment of premiums. A monthly payment plan may, but is not required to, be offered.

*16.*~~17.~~ Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

*17.*~~18.~~ May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

*18.*~~19.~~ May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(m)1. Rates for coverage provided by the corporation shall be actuarially sound and subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, that model shall serve as the minimum benchmark for determining the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 and 2008 calendar years except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect ~~January 1, 2009,~~ pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

*5. Beginning on July 15, 2009, and each year thereafter, the corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes, to be effective no earlier than January 1, 2010.*

(p)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to

collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. ~~If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.~~

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(I) Pay to the producing agent of record of the policy, for the first year, an amount which is the greater of the insurer's usual and customary commission for the type of policy written or a policy fee equal to the usual and customary commission of the corporation; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

b. Any credit or exemption from regular assessments adopted under this subparagraph shall last no longer than the 3 years following the cancellation or expiration of the policy by the corporation. With the approval of the office, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the corporation, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies so removed.

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.d.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.d., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

6. Any policy taken out, assumed, or removed from the corporation is, as of the effective date of the take-out, assumption, or removal, direct insurance issued by the insurer and not by the corporation, even if the corporation continues to service the policies. This subparagraph applies to policies of the corporation and not policies taken out, assumed, or removed from any other entity.

(w)1. The following records of the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files. *Confidential and exempt underwriting file records may also be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided herein.*

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided ~~for~~ herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered "active" while the investigation is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

e. Proprietary information licensed to the corporation under contract and the contract provides for the confidentiality of such proprietary information.

f. All information relating to the medical condition or medical status of a corporation employee which is not relevant to the employee's capacity to perform his or her duties, except as otherwise provided in this paragraph. Information *that* ~~which~~ is exempt shall include, but is not

limited to, information relating to workers' compensation, insurance benefits, and retirement or disability benefits.

g. Upon an employee's entrance into the employee assistance program, a program to assist any employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, all records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in s. 112.0455(11).

h. Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations.

i. Minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding an open claims file until termination of all litigation and settlement of all claims with regard to that claim, except that information otherwise confidential or exempt by law *shall* ~~will~~ be redacted.

*2. If* ~~When~~ an authorized insurer is considering underwriting a risk insured by the corporation, relevant underwriting files and confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. *If* ~~When~~ a file is transferred to an insurer that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff ~~of~~ and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the corporation or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to licensed general lines insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

*3. A policyholder who has filed suit against the corporation has the right to discover the contents of his or her own claims file to the same extent that discovery of such contents would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law. Pursuant to subpoena, a third party has the right to discover the contents of an insured's or applicant's underwriting or claims file to the same extent that discovery of such contents would be available from a private insurer by subpoena as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law, and subject to any confidentiality protections requested by the corporation and agreed to by the seeking party or ordered by the court. The corporation may release confidential underwriting and claims file contents and information as it deems necessary and appropriate to underwrite or service insurance policies and claims, subject to any confidentiality protections deemed necessary and appropriate by the corporation.*

*4.*~~2.~~ Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(e)-(g), the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

~~(dd)1. For policies subject to nonrenewal as a result of the risk being no longer eligible for coverage due to being valued at $1 million or more, the corporation shall, directly or through the market assistance plan, make information from confidential underwriting and claims files of policyholders available only to licensed general lines agents who register with the corporation to receive such information according to the following procedures:~~

~~2. By August 1, 2006, the corporation shall provide such policyholders who are not eligible for renewal the opportunity to request in writing, within 30 days after the notification is sent, that information from their confidential underwriting and claims files not be released to licensed general lines agents registered pursuant to this paragraph.~~

~~3. By August 1, 2006, the corporation shall make available to licensed general lines agents the registration procedures to be used to obtain confidential information from underwriting and claims files for such policies not eligible for renewal. As a condition of registration, the corporation shall require the licensed general lines agent to attest that the agent has the experience and relationships with authorized or surplus lines carriers to attempt to offer replacement coverage for such policies.~~

~~4. By September 1, 2006, the corporation shall make available through a secured website to licensed general lines agents registered pursuant to this paragraph application, rating, loss history, mitigation, and policy type information relating to such policies not eligible for renewal and for which the policyholder has not requested the corporation withhold such information. The registered licensed general lines agent may use such information to contact and assist the policyholder in securing replacement policies, and the agent may disclose to the policyholder that such information was obtained from the corporation.~~

*(dd)*~~(ee)~~ The assets of the corporation may be invested and managed by the State Board of Administration.

*(ee)*~~(ff)~~ The office may establish a pilot program to offer optional sinkhole coverage in one or more counties or other territories of the corporation for the purpose of implementing s. 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida. Under the pilot program, the corporation is not required to issue a notice of nonrenewal to exclude sinkhole coverage upon the renewal of existing policies, but may exclude such coverage using a notice of coverage change.

Section 14. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:

(b) The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 100 days prior to the effective date of the nonrenewal, cancellation, or termination. However, the insurer shall give at least 100 days' written notice, or written notice by June 1, whichever is earlier, for any nonrenewal, cancellation, or termination that would be effective between June 1 and November 30. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

*1. The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 180 days prior to the effective date of the nonrenewal, cancellation, or termination for a named insured whose residential structure has been insured by that insurer or an affiliated insurer for at least a 5-year period immediately prior to date of the written notice.*

*2.*~~1.~~ When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. "Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent

has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full.

*3.*~~2.~~ When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

*4.*~~3.~~ The requirement for providing written notice of nonrenewal by June 1 of any nonrenewal that would be effective between June 1 and November 30 does not apply to the following situations, but the insurer remains subject to the requirement to provide such notice at least 100 days prior to the effective date of nonrenewal:

a. A policy that is nonrenewed due to a revision in the coverage for sinkhole losses and catastrophic ground cover collapse pursuant to s. 627.730, as amended by s. 30, chapter 2007-1, Laws of Florida.

b. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement or renewal coverage to the policyholder.

After the policy has been in effect for 90 days, the policy shall not be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

Section 15. Effective January 1, 2011, section 689.262, Florida Statutes, is created to read:

*689.262 Sale of residential property; disclosure of windstorm mitigation rating.—A purchaser of residential property that is located in the wind-borne debris region, as defined in s. 1609.2 of the International Building Code(2006), must be informed of the windstorm mitigation rating of the structure, based on the uniform home grading scale adopted pursuant to s. 215.55865. The rating must be included in the contract for sale or as a separate document attached to the contract for sale. The Financial Services Commission may adopt rules, consistent with other state laws, to administer this section, including the form of the disclosure and the requirements for the windstorm mitigation inspection or report that is required for purposes of determining the rating.*

Section 16. *(1) By December 15, 2008, Citizens Property Insurance Corporation shall transfer $250 million to the General Revenue Fund, from the personal lines account and the commercial lines account only, if the combined surplus of the personal lines account and commercial lines account as defined in s. 627.351(6), Florida Statutes, exceeds $1 billion. The board of governors of Citizens Property Insurance Corporation must make a reasonable estimate of such surplus on or after December 1, 2008, and no later than December 14, 2008, using generally accepted actuarial and accounting practices, recognizing that audited financial statements will not yet be available.*

*(2) Beginning July 1, 2009, the board shall make quarterly transfers of any interest earned prior to the issuance of any surplus notes, interest paid, and principal repaid to the state for any surplus notes issued by the program after December 1, 2008, to Citizens Property Insurance Corporation, provided such surplus notes were funded exclusively by an appropriation to the program by the Legislature for the 2008-2009 fiscal year. The corporation shall credit each account as defined in s. 627.351(6) in a pro rata manner for the funds removed from each account to make the transfer required by subsection (1).*

*(3) On July 1, 2009, the State Board of Administration shall transfer to Citizens Property Insurance Corporation any funds that have not been committed or reserved for insurers approved to receive such funds under the program from the funds that were appropriated from the corporation in 2008-2009 for such purposes.*

Section 17. *Citizens Property Insurance Corporation may not use any amendments made to s. 215.5595, Florida Statutes, by this act or any transfer of funds authorized by this act as justification or cause in seeking any rate or assessment increase.*

Section 18. Subsection (3) is added to section 627.06281, Florida Statutes, to read:

627.06281 Public hurricane loss projection model; reporting of data by insurers.—

*(3)(a) A residential property insurer may have access to and use the public hurricane loss projection model, including all assumptions and factors and all detailed loss results, for the purpose of calculating rate indications in a rate filing and for analytical purposes, including any analysis or evaluation of the model required under actuarial standards of practice.*

*(b) By January 1, 2009, the office shall establish by rule a fee schedule for access to and the use of the model. The fee schedule must be reasonably calculated to cover only the actual costs of providing access to and the use of the model.*

Section 19. Section 627.0655, Florida Statutes, is amended to read:

627.0655 Policyholder loss or expense-related premium discounts.—An insurer or person authorized to engage in the business of insurance in this state may include, in the premium charged an insured for any policy, contract, or certificate of insurance, a discount based on the fact that another policy, contract, or certificate of any type has been purchased by the insured from the same insurer or insurer group*, the Citizens Property Insurance Corporation created under s. 627.351(6) if the same insurance agent is servicing both policies, or an insurer that has removed the policy from the Citizens Property Insurance Corporation if the same insurance agent is servicing both policies*.

Section 20. *(1) The Citizens Property Insurance Corporation Mission Review Task Force is created to analyze and compile available data and to develop a report setting forth the statutory and operational changes needed to return Citizens Property Insurance Corporation to its former role as a state-created, noncompetitive residual market mechanism that provides property insurance coverage to risks that are otherwise entitled but unable to obtain such coverage in the private insurance market. The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2009. At a minimum, the task force shall analyze and evaluate relevant and applicable information and data and develop recommendations concerning:*

*(a) The nature of Citizens Property Insurance Corporation's role in providing property insurance coverage only if such coverage is not available from private insurers.*

*(b) The ability of the admitted market to offer policies to those consumers formerly insured through Citizens Property Insurance Corporation. This consideration shall include, but not be limited to, the availability of private market reinsurance and coverage through the Florida Hurricane Catastrophe Fund and the capacity of the industry to offer policies to former Citizens Property Insurance Corporation policyholders within existing writing ratio limitations.*

*(c) The relationship of rates charged by Citizens Property Insurance Corporation to rates charged by private insurers, with due consideration for the corporation's role as a noncompetitive residual market mechanism.*

*(d) The relationships between the exposure of Citizens Property Insurance Corporation to catastrophic hurricane losses, the corporation's history of purchasing any reinsurance coverage, and the corporation's capital capacity to meet its potential claim obligations without incurring large deficits.*

*(e) The projected assessments on all policies required to offset the lack of capitol to pay claims.*

*(f) The projections under paragraph (e) shall be specific to losses of $3 billion, $12 billion, and $23 billion caused by a storm or a group of storms in any given year.*

*(g) The operational implications of the variation in the number of policies in force over time in Citizens Property Insurance Corporation and the merits of outsourcing some or all of its operational responsibilities.*

*(h) Changes in the mission and operations of Citizens Property Insurance Corporation to reduce or eliminate any adverse effect such mission and operations may be having on the promotion of sound and economic growth and development of the coastal areas of this state.*

*(i) Appropriate and consistent geographic boundaries of the high-risk account.*

*(j) The rankings, by county, of the average approved rates in Citizens Property Insurance Corporation and any savings associated with policyholder choice in selecting Citizens.*

*(2) The task force shall be composed of 11 members as follows:*

*(a) Two members appointed by the Speaker of the House of Representatives.*

*1. One member representing a property and casualty residential insurer that provides at least 150,000 homeowner's insurance policies in this state at the time of the creation of the task force.*

*2. One member representing a surplus lines insurance company.*

*(b) Two members appointed by the President of the Senate.*

*1. One member representing a property and casualty commercial non-residential insurer.*

*2. One member representing a property and casualty residential insurer with fewer than 150,000 homeowner's policies in this state at the time of the creation of the task force.*

*(c) Three members appointed by the Governor who are not employed by or professionally affiliated with an insurance company or a subsidiary of an insurance company, at least one of whom must be consumer advocates or members of a consumer advocacy organization or agency.*

*(d) Two members appointed by the Chief Financial Officer representing insurance agents in this state.*

*(e) One member representing Citizens Property Insurance Corporation selected by Citizens Chairman of the Board.*

*(f) The Commissioner of Insurance Regulation or his or her designee.*

*(3) The task force shall conduct research, hold public meetings, receive testimony, employ consultants and administrative staff, and undertake other activities determined by its members to be necessary to complete its responsibilities. Citizens Property Insurance Corporation shall have appropriate senior staff attend task force meetings, shall respond to requests for testimony and data by the task force, shall otherwise cooperate with the task force, and shall provide funding for the necessary costs of implementing the provisions of this section.*

*(4) A member of the task force may not delegate his or her attendance or voting power to a designee.*

*(5) Members of the task force shall serve without compensation but are entitled to receive reimbursement for travel and per diem as provided in s. 112.061, Florida Statutes.*

*(6) The appointments to the task force must be completed within 30 calendar days after the effective date of this act, and the task force must hold its initial meeting within 1 month after appointment of all members. The task force shall expire no later than 60 calendar days after submission of the report required in subsection (1).*

Section 21. *The Chief Financial Officer shall provide a report on the economic impact on the state of a 1-in-100-year hurricane to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1 of each year. The report shall include an estimate of the short-term and long-term fiscal impacts of such a storm on Citizens Property Insurance Corporation, the Florida Hurricane Catastrophe Fund, the private insurance and reinsurance markets, the state economy, and the state debt. The report shall also include an analysis of the average premium increase to fund a 1-in-100-year hurricane event and list the average cost, in both a percentage and dollar amount, impact to consumers on a county-level basis. The report may also include recommendations by the Chief Financial Officer for preparing for such a hurricane and reducing the economic impact of such a hurricane on the state. In preparing the analysis, the Chief Financial Officer shall coordinate with and obtain data from the Office of Insurance Regulation, Citizens Property Insurance Corporation, the Florida Hurricane Catastrophe Fund, the Florida Commission on Hurricane Loss Projection Methodology, the State Board of Administration, the Office of Economic and Demographic Research, and other state agencies.*

Section 22. Section 627.0621, Florida Statutes, is created to read:

*627.0621 Transparency in rate regulation.—*

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

*(a) "Rate filing" means any original or amended rate residential property insurance filing.*

*(b) "Recommendation" means any proposed, preliminary, or final recommendation from an office actuary reviewing a rate filing with respect to the issue of approval or disapproval of the rate filing or with respect to rate indications that the office would consider acceptable.*

*(2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—With respect to any rate filing made on after July 1, 2008, the office shall provide the following information on a publicly accessible Internet website:*

*(a) The overall rate change requested by the insurer.*

*(b) All assumptions made by the office's actuaries.*

*(c) A statement describing any assumptions or methods that deviate from the actuarial standards of practice of the Casualty Actuarial Society or the American Academy of Actuaries, including an explanation of the nature, rationale, and effect of the deviation.*

*(d) All recommendations made by any office actuary who reviewed the rate filing.*

*(e) Certification by the office's actuary that, based on the actuary's knowledge, his or her recommendations are consistent with accepted actuarial principles.*

*(f) The overall rate change approved by the office.*

*(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.—It is the intent of the Legislature that the principles of the public records and open meetings laws apply to the assertion of attorney-client privilege and work product confidentiality by the office in connection with a challenge to its actions on a rate filing. Therefore, in any administrative or judicial proceeding relating to a rate filing, attorney-client privilege and work product exemptions from disclosure do not apply to communications with office attorneys or records prepared by or at the direction of an office attorney, except when the conditions of paragraphs (a) and (b) have been met:*

*(a) The communication or record reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or office that was prepared exclusively for civil or criminal litigation or adversarial administrative proceedings.*

*(b) The communication occurred or the record was prepared after the initiation of an action in a court of competent jurisdiction, after the issuance of a notice of intent to deny a rate filing, or after the filing of a request for a proceeding under ss. 120.569 and 120.57.*

Section 23. Paragraph (b) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(b)1. The contract shall contain a promise by the board to reimburse the insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses.

2. The insurer must elect one of the percentage coverage levels specified in this paragraph and may, upon renewal of a reimbursement contract, elect a lower percentage coverage level if no revenue bonds issued under subsection (6) after a covered event are outstanding, or elect a higher percentage coverage level, regardless of whether or not revenue bonds are outstanding. All members of an insurer group must elect the same percentage coverage level. Any joint underwriting association, risk apportionment plan, or other entity created under s. 627.351 must elect the 90-percent coverage level.

3. The contract shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. Notwithstanding any other provision contained in this section, the board shall make available to insurers that purchased coverage provided by this subparagraph in *2007* ~~2006~~, insurers qualifying as limited apportionment companies under s. 627.351(6)(c), and insurers that *have been* ~~were~~ approved to participate in ~~2006 or that are approved in 2007 for~~ the Insurance Capital Build-Up Incentive Program pursuant to s. 215.5595~~,~~ a contract or contract addendum that provides an additional amount of reimbursement coverage of up to $10 million. The premium to be charged for this additional reimbursement coverage shall be 50 percent of the additional reimbursement coverage provided, which shall include one prepaid reinstatement. The minimum retention level that an eligible participating insurer must retain associated with this additional coverage layer is 30 percent of the insurer's surplus as of December 31, *2007* ~~2006~~. This coverage shall be in addition to all other coverage that may be provided under this section. The coverage provided by the fund under this subparagraph shall be in addition to the claims-paying capacity as defined in subparagraph (c)1., but only with respect to those insurers that select the additional coverage option and meet the requirements of this subparagraph. The claims-paying capacity with respect to all other participating insurers and limited apportionment companies that do not select the additional coverage option shall be limited to their reimbursement premium's proportionate share of the actual claims-paying capacity otherwise defined in subparagraph (c)1. and as provided for under the terms of the reimbursement contract. Coverage provided in the reimbursement contract *shall* ~~will~~ not be affected by the additional premiums paid by participating insurers exercising the additional coverage option allowed in this subparagraph. This subparagraph expires on May 31, *2009* ~~2008~~.

Section 24. Subsection (1) of section 627.0613, Florida Statutes, is amended to read:

627.0613 Consumer advocate.—The Chief Financial Officer must appoint a consumer advocate who must represent the general public of the state before the department and the office. The consumer advocate must report directly to the Chief Financial Officer, but is not otherwise under the authority of the department or of any employee of the department. The consumer advocate has such powers as are necessary to carry out the duties of the office of consumer advocate, including, but not limited to, the powers to:

(1) Recommend to the department or office, by petition, the commencement of any proceeding or action; appear in any proceeding or action before the department or office; or appear in any proceeding before the Division of Administrative Hearings ~~or arbitration panel specified in s. 627.062(6)~~ relating to subject matter under the jurisdiction of the department or office.

Section 25. Subsections (1) and (2) of section 627.712, Florida Statutes, are amended to read:

627.712 Residential windstorm coverage required; availability of exclusions for windstorm or contents.—

(1) An insurer issuing a residential property insurance policy must provide windstorm coverage. *Except as provided in paragraph (2)(c),* this *section* ~~subsection~~ does not apply with respect to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6).

(2) A property insurer must make available, at the option of the policyholder, an exclusion of windstorm coverage.

*(a)* The coverage may be excluded only if:

~~(a)~~1. When the policyholder is a natural person, the policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home/mobile home/condominium unit) to pay for damage from windstorms. I will pay those costs. My insurance will not."

2. When the policyholder is other than a natural person, the policyholder provides to the insurer on the policyholder's letterhead the following statement that must be signed by the policyholder's authorized representative and dated: " (Name of entity) does not want the insurance on its (type of structure) to pay for damage from windstorms. (Name of entity) will be responsible for these costs. (Name of entity's) insurance will not."

(b) If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to exclude windstorm coverage or hurricane coverage from his or her or its property insurance policy.

*(c) If the residential structure is eligible for wind-only coverage from Citizens Property Insurance Corporation, an insurer nonrenewing a policy and issuing a replacement policy, or issuing a new policy, that does not provide wind coverage shall provide a notice to the mortgageholder or lienholder indicating the policyholder has elected coverage that does not cover wind.*

Section 26. *The provisions of this act shall supersede and control over any conflicting provisions adopted in House Bill 5057, 2008 Regular Session, to the extent of such conflict, if that bill becomes a law.*

Section 27. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to insurance; providing a short title; amending s. 215.5595, F.S.; revising legislative findings; providing for an appropriation of state funds in exchange for surplus notes issued by residential property insurers under the program; revising the conditions and requirements for providing funds to insurers under the program; requiring a commitment by the insurer to meet minimum premium-to-surplus writing ratios for residential property insurance and for taking policies out of Citizens Property Insurance Corporation; requiring insurers to commit to maintaining certain levels of surplus and reinsurance; authorizing the State Board of Administration to charge a fee for late payments; providing for payment of costs and fees incurred by the board in administering the program from funds appropriated to the program, subject to a specified limit; requiring the board to submit an annual report to the Legislature on the program and insurer compliance with certain requirements; providing that amendments made by the act do not affect the terms of surplus notes approved prior to a specified date; authorizing the State Board of Administration and an insurer to renegotiate such terms consistent with such amendments; requiring the State Board of Administration to transfer to Citizens Property Insurance Corporation certain uncommitted or unreserved funds; amending s. 624.3161, F.S.; authorizing the Office of Insurance Regulation to require an insurer to file its claims handling practices and procedures as a public record based on findings of a market conduct examination; amending s. 624.4211, F.S.; increasing the maximum amounts of administrative fines that may be imposed upon an insurer by the Office of Insurance Regulation for nonwillful and willful violations of an order or rule of the office or any provision of the Florida Insurance Code; creating s. 624.4213, F.S.; specifying requirements for submission of a document or information to the Office of Insurance Regulation or the Department of Financial Services in order for a person to claim that the document is a trade secret; requiring each page or portion to be labeled as a trade secret and be separated from non-trade secret material; requiring the submitting party to include an affidavit certifying certain information about the documents claimed to be trade secrets; requiring the office or depart-

ment to notify persons who submit trade secret documents of any public-records request and the opportunity to file a court action to bar disclosure; specifying conditions for the office to retain or release such documents; creating s. 624.4305, F.S.; requiring that an insurer planning to nonrenew more than a specified number of residential property insurance policies notify the Office of Insurance Regulation and obtain approval for such nonrenewals; specifying procedures for issuance of such notice; amending s. 626.9521, F.S.; increasing the maximum fines that may be imposed by the office or department for nonwillful and willful violations of state law regarding unfair methods of competition and unfair or deceptive acts or practices related to insurance; amending s. 626.9541, F.S.; specifying an additional unfair claims settlement practice; amending s. 627.0612, F.S.; providing criteria for administrative hearings to determine whether an insurer's property insurance rates, rating manuals, premium credits, discount schedules, and surcharge schedules comply with the law; providing for entry of certain orders; amending s. 627.062, F.S.; requiring that an insurer seeking a rate for property insurance that is greater than the rate most recently approved by the Office of Insurance Regulation make a "file and use" filing for all such rate filings made after a specified date; revising the factors the office must consider in reviewing a rate filing; prohibiting the Office of Insurance Regulation from disapproving as excessive a rate solely because the insurer obtained reinsurance covering a specified probably maximum loss; allowing the office to disapprove a rate as excessive within 1 year after the rate has been approved under certain conditions related to nonrenewal of policies by the insurer; requiring the Division of Administrative Hearings to expedite a hearing request by an insurer and for the administrative law judge to commence the hearing within a specified time; authorizing an insurer to request an expedited appellate review pursuant to the Florida Rules of Appellate Procedure; expressing legislative intent for an expedited appellate review; revising provisions relating to the submission of a disputed rate filing, other than a rate filing for medical malpractice insurance, to an arbitration panel in lieu of an administrative hearing if the rate is filed before a specified date; deleting provisions relating to mandatory arbitration in lieu of certain hearings; amending s. 627.0628, F.S.; providing legislative findings relating to final agency action for insurance ratemaking; requiring the Financial Services Commission to consider and adopt findings relating to certain actuarial models, principles, standards, or models for certain maximum loss level calculations; requiring that with respect to rate filings, insurers must use actuarial methods or models found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology; deleting the requirement for the Office of Insurance Regulation and the Consumer Advocate to have access to all assumptions of a hurricane loss model in order for a model that has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology to be admissible in a rate proceeding; deleting cross-references to conform to changes made by the act; amending s. 627.0629, F.S.; requiring that the Office of Insurance Regulation develop and make publicly available before a specified deadline a proposed method for insurers to establish windstorm mitigation premium discounts that correlate to the uniform home rating scale; requiring that the Financial Services Commission adopt rules before a specified deadline; requiring insurers to make rate filings pursuant to such method; authorizing the commission to make changes by rule to the uniform home grading scale and specify by rule the minimum required discounts, credits, or other rate differentials; requiring that such rate differentials be consistent with generally accepted actuarial principles and wind loss mitigation studies; amending s. 627.351, F.S., relating to Citizens Property Insurance Corporation; deleting a provision to conform to changes made in the act; deleting provisions defining the terms "homestead property" and "nonhomestead property"; increasing threshold replacement costs of certain structures for eligibility for coverage by the corporation; deleting requirements for certain properties to meeting building code plus requirements as a condition of eligibility for coverage by the corporation; decreasing the value at which certain structures are eligible for coverage; requiring written disclosure of windstorm mitigation ratings for certain structures; deleting outdated provisions requiring the corporation to submit a report for approval of offering multiperil coverage; revising threshold amounts of deficits incurred in a calendar year on which the decision to levy assessments and the types of such assessments are based; revising the formula used to calculate shares of assessments owed by certain assessable insureds; requiring that the board of governors make certain determinations before levying emergency assessments; providing the board of governors with discretion to set the amount of an emergency assessment within specified limits; requiring the board of governors to levy a Citizens policyholder surcharge under certain conditions; increasing the amount of the surcharge; deleting a provision requiring the levy of an immediate assessment against certain policyholders under such conditions; requiring that funds collected from the levy of such surcharges be used for certain purposes; providing that such surcharges are not considered premium and are not subject to commissions, fees, or premium taxes; requiring that the failure to pay such surcharges be treated as failure to pay premium; requiring that the amount of any assessment or surcharge which exceeds the amount of deficits be remitted to and used by the corporation for specified purposes; deleting provisions requiring that the plan of operation of the corporation provide for the levy of a Citizens policyholder surcharge if regular deficit assessments are levied as a result of deficits in certain accounts; deleting provisions related to the calculation, classification, and nonpayment of such surcharge; requiring that the corporation make an annual filing for each personal or commercial line of business it writes, beginning on a specified date; deleting a provision requiring an insurer to purchase bonds that remain unsold; deleting provisions requiring the corporation to make certain confidential underwriting and claims files available to agents to conform to changes made by the act relating to ineligibility of certain dwellings; clarifying the right of certain parties to discover underwriting and claims file records; authorizing the corporation to release such records as it deems necessary; amending s. 627.4133, F.S.; requiring insurers to provide written notice of certain cancellations, nonrenewals, or terminations; creating s. 689.262, F.S.; requiring a purchaser of residential property in wind-borne debris regions to be presented with the windstorm mitigation rating of the structure; authorizing the Financial Services Commission to adopt rules; requiring Citizens Property Insurance Corporation to transfer funds to the General Revenue Fund if the losses due to a hurricane do not exceed a specified amount; requiring the board of governors of Citizens Property Insurance Corporation to make a reasonable estimate of such losses by a certain date; requiring the board to make quarterly transfers of funds to the corporation under certain circumstances; requiring the corporation to credit certain accounts for funds removed to make certain transfers; requiring the State Board of Administration to transfer to Citizens Property Insurance Corporation certain uncommitted or unreserved funds under certain circumstances; prohibiting Citizens Property Insurance Corporation from using certain statutory changes or authorized transfers of funds as justification or cause to seek any rate or assessment increase; amending s. 627.06281, F.S.; providing for residential property insurers to have access to and use a public hurricane loss projection model; requiring the office to establish a fee schedule for such model access and use; amending s. 627.0655, F.S.; expanding application of policyholder loss or expense-related premium discounts; creating the Citizens Property Insurance Corporation Mission Review Task Force; providing purposes; requiring a report; providing report requirements; providing for appointment of members; providing responsibilities; specifying service without compensation; providing for reimbursement of per diem and travel expenses; providing meeting requirements; requiring the corporation to assist the task force; providing for the expiration of the task force; requiring the Chief Financial Officer to provide a report on the economic impact on the state of certain hurricanes; providing report requirements; creating s. 627.0621, F.S.; providing requirements for transparency in rate regulation; providing definitions; providing for a website for public access to rate filing information; providing requirements; providing for application of public meeting requirements; specifying nonapplication of attorney-client or work-product privileges to certain communications in certain administrative or judicial proceedings under certain circumstances; specifying criteria; amending s. 215.555, F.S.; extending for an additional year the offer of reimbursement coverage for specified insurers; revising the qualifying criteria for such insurers; revising provisions to conform; amending s. 627.0613, F.S.; deleting cross-references to conform to changes made by the act; amending s. 627.712, F.S.; requiring insurers to provide notice to mortgageholders or lienholders of certain policies not providing wind coverage for certain structures; providing for provisions of the act to supersede and control over conflicting provisions of House Bill 5057; providing effective dates.

On motion by Senator Atwater, the Senate concurred in the House amendment.

**CS for CS for SB's 2860 and 1196** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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|---|---|---|
| Mr. President | Aronberg | Baker |
| Alexander | Atwater | Bennett |

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|---|---|---|
| Bullard | Garcia | Peaden |
| Carlton | Geller | Posey |
| Constantine | Haridopolos | Rich |
| Crist | Jones | Saunders |
| Dean | Joyner | Storms |
| Deutch | Justice | Villalobos |
| Dockery | King | Webster |
| Fasano | Lynn | Wilson |
| Gaetz | Margolis | Wise |

Nays—5

| | | |
|---|---|---|
| Hill | Oelrich | Siplin |
| Lawson | Ring | |

Vote after roll call:

Yea—Diaz de la Portilla

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**MOTION**

On motion by Senator Alexander, the House was requested to return **CS for HB 197**.

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 866, with 1 amendment, and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for SB 866**—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; revising provisions relating to the investigative duties of the Secretary of State; amending s. 97.041, F.S.; revising requirements for voter preregistration of minors; amending s. 97.053, F.S.; revising provisions relating to verification of certain information on voter registration applications; amending s. 97.0535, F.S.; revising forms of acceptable identification for certain voter registration applicants; amending s. 97.055, F.S.; providing for change of party affiliation after the closing of the registration books to apply to an upcoming election under certain circumstances; amending s. 98.065, F.S.; revising registration list maintenance provisions; creating s. 98.0655, F.S.; requiring the Department of State to prescribe registration list maintenance forms; providing criteria for such forms; amending s. 98.0981, F.S.; reducing the time by which supervisors of elections must electronically transmit certain voter history information to the department; requiring the department to prepare a detailed report containing specified voter information to legislative officers after a general election; requiring supervisors of elections to collect and submit data to the department after certain elections; defining the phrase "all ballots cast"; requiring the department to compile precinct-level statistical data for counties before certain elections; amending s. 99.012, F.S.; providing restrictions on individuals qualifying for public office; removing an exception from such restrictions for persons seeking any federal public office; amending s. 99.021, F.S.; deleting a resignation statement from the qualifying oath for candidates for federal office; amending s. 99.095, F.S.; providing requirements for candidate qualifying petitions; amending s. 100.221, F.S.; providing circumstances under which early voting is not required; amending s. 100.361, F.S.; revising provisions relating to the recall of municipal or charter county officers, recall committees, recall petitions, recall defense, and offenses related thereto; amending s. 100.371, F.S.; providing that a petition form circulated for signatures may not be bundled with other petitions; deleting requirements relating to the recording and determination of signature forms; providing that an elector may complete and submit a standard petition-revocation form directly to the supervisor of elections under certain circumstances; requiring that the division adopt petition-revocation forms by rule; amending s. 101.041, F.S.; deleting a requirement for the printing and distribution of official ballots; amending s. 101.045, F.S.; authorizing the use of a voter registration application for a name or address change; amending s. 101.111, F.S.; revising methods by which a person's right to vote may be challenged; amending s. 101.23, F.S.; deleting provisions requiring an election inspector to prevent certain persons from voting; amending s. 101.51, F.S.; deleting provisions specifying certain responsibilities of election officials before allowing electors to enter a booth or compartment to vote; amending s. 101.5608, F.S.; revising certain procedures relating to the deposit of ballots; repealing s. 101.573, F.S., relating to the reporting of precinct-level election results; amending s. 101.6923, F.S.; revising forms of acceptable identification for certain absentee voters; amending s. 101.75, F.S.; authorizing municipalities to set by ordinance election dates to coincide with statewide or countywide elections; amending s. 102.014, F.S.; revising provisions relating to the training of poll workers; amending s. 102.031, F.S.; including the term "solicitation" as an equivalent of the term "solicit" as it relates to the unlawful solicitation of voters; providing that such terms do not prohibit exit polling; amending s. 102.112, F.S.; revising the county canvassing board's certification requirements for election returns; amending s. 103.101, F.S.; deleting provisions related to the placement on the ballot of presidential candidates whose names do not appear on the list submitted to the Secretary of State; amending s. 106.021, F.S.; removing a campaign finance filing requirement for certain candidates; amending s. 106.07, F.S.; clarifying that political subdivisions may impose electronic filing requirements on certain candidates, and that expenditures for such filing system serve a valid public purpose; repealing s. 106.082, F.S., relating to campaign contribution limitations for candidates for the office of Commissioner of Agriculture; amending s. 106.147, F.S.; requiring a disclosure statement for certain telephone calls and communications; revising provisions requiring authorization from the candidate or sponsor for certain telephone calls; amending s. 106.24, F.S.; providing that the Florida Elections Commission is its own agency head rather than the director of the commission; amending s. 190.006, F.S.; deleting certain fee and assessment provisions for candidates seeking election to the board of supervisors of a community redevelopment district; amending s. 105.041, F.S.; providing procedure for determining ballot position of candidates for the office of circuit judge; providing effective dates.

**Substitute House Amendment 2 (553517)(with title amendment)**—Between lines 1440 and 1441, insert:

Section 30. Section 106.071, Florida Statutes, is amended to read:

106.071 Independent expenditures; electioneering communications; reports; disclaimers.—

(1) Each person who makes an independent expenditure with respect to any candidate or issue, and each individual who makes an expenditure for an electioneering communication which is not otherwise reported pursuant to this chapter, which expenditure, in the aggregate, is in the amount of $100 or more, shall file periodic reports of such expenditures in the same manner, at the same time, subject to the same penalties, and with the same officer as a political committee supporting or opposing such candidate or issue. The report shall contain the full name and address of the person making the expenditure; the full name and address of each person to whom and for whom each such expenditure has been made; the amount, date, and purpose of each such expenditure; a description of the services or goods obtained by each such expenditure; the issue to which the expenditure relates; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(2) Any political advertisement paid for by an independent expenditure shall prominently state "Paid political advertisement paid for by (Name and address of person paying for advertisement) independently of any (candidate or committee)."

(3) Subsection (2) does not apply to novelty items having a retail value of $10 or less which support, but do not oppose, a candidate or issue.

~~(4) Any person who fails to include the disclaimer prescribed in subsection (2) in any political advertisement that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 31. Section 106.1439, Florida Statutes, is amended to read:

106.1439 Electioneering communications; disclaimers.—

~~(1)~~ Any electioneering communication shall prominently state: "Paid electioneering communication paid for by (Name and address of person paying for the communication)."

~~(2) Any person who fails to include the disclaimer prescribed in this section in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

And the title is amended as follows:

Between lines 81 and 82, insert: amending s. 106.071, F.S.; deleting the penalty provision for failing to provide a disclaimer in a political advertisement paid for by an independent expenditure; amending s. 106.1439, F.S.; deleting the penalty provision for failing to provide a disclaimer in an electioneering communication;

On motion by Senator Constantine, the Senate refused to concur in the House amendment to **CS for CS for SB 866** and the House was requested to recede. The action of the Senate was certified to the House.

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for CS for SB 2216, with 1 amendment, and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for CS for SB 2216**—A bill to be entitled An act relating to adult protection and care; amending s. 322.142, F.S.; authorizing the Department of Children and Family Services to obtain copies of driver's license files maintained by the Department of Highway Safety and Motor Vehicles for the purpose of conducting protective investigations; amending s. 400.141, F.S.; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all nursing home residents; amending s. 400.19, F.S.; revising provisions relating to unannounced inspections; amending s. 400.215, F.S.; requiring contracted workers employed in a nursing home to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in a nursing home; providing certain exceptions; deleting an obsolete provision; amending s. 408.809, F.S.; requiring the agency to establish a fee schedule to cover the cost of a level 1 or level 2 screening and giving the agency rulemaking authority; amending s. 408.810, F.S.; requiring health care facilities regulated by the Agency for Health Care Administration to post certain information in the facility; authorizing the agency to charge a fee to cover production and distribution unless the information is downloaded from the agency's website; amending s. 408.811, F.S.; providing that agency employees who provide advance notice of unannounced agency inspections are subject to suspension; providing a timeline and process for correction of deficiencies; providing that the agency may provide electronic access to documents; amending s. 415.103, F.S.; requiring certain reports to the central abuse hotline relating to vulnerable adults to be immediately transferred to the county sheriff's office; amending s. 415.1051, F.S.; authorizing the Department of Children and Family Services to file the petition to determine incapacity in adult protection proceedings; prohibiting the department from serving as the guardian or providing legal counsel to the guardian; amending s. 415.112, F.S.; specifying rules to be adopted by the Department of Children and Family Services relating to adult protective services under ch. 415, F.S.; amending s. 429.02, F.S.; revising the definition of "service plan" to remove the limitation that plans are required only in assisted living facilities that have an extended congregate care license; requiring that the agency develop a service plan form; amending s. 429.07, F.S.; providing that license requirements for specialty licenses apply to current licensees as well as applicants for an extended congregate care and limited nursing license; conforming a cross-reference; amending s. 429.174, F.S.; requiring certain employees and contracted workers in assisted living facilities to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in an assisted living facility; providing certain exceptions; requiring the person being screened to pay for the cost of screening; amending s. 429.255, F.S.; providing that the owner or administrator of an assisted living facility is responsible for the services provided in the facility; amending s. 429.26, F.S.; clarifying a prohibition on moving a resident; providing for the development of a service plan for all residents; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all residents of an assisted living facility; requiring residents to be periodically assessed for competency to handle personal affairs; amending s. 429.27, F.S.; prohibiting assisted living facility personnel from making certain decisions for a resident or acting as the resident's representative or surrogate; amending s. 429.28, F.S.; requiring that notice of a resident's relocation or termination of residency be in writing and a copy sent to specified persons; requiring the State Long-Term Ombudsman Program include information within their annual report to the Governor and the Legislature; requiring facilities to have a written grievance procedure that includes certain information; requiring that grievances reported to the local ombudsman council be included in a statewide reporting system; revising provisions relating to agency surveys to determine compliance with resident rights in assisted living facilities; amending s. 429.294, F.S.; deleting a cross-reference; amending s. 429.34, F.S.; providing for unannounced inspections; providing for additional 6-month inspections for certain violations; providing for an additional fine for 6-month inspections; amending s. 429.41, F.S.; requiring all residents of assisted living facilities to have a service plan; amending s. 429.65, F.S.; providing a definition of the term "reside"; amending s. 429.67, F.S.; expanding the list of persons who must have a background screening in adult family-care homes; amending s. 429.69, F.S.; providing that the failure of a adult family-care home provider to live in the home is grounds for the denial, revocation, or suspension of a license; amending s. 429.73, F.S.; requiring adult family-care home residents to be periodically assessed for competency to handle personal affairs; amending ss. 435.03 and 435.04, F.S.; providing additional criminal offenses for screening certain health care facility personnel; repealing s. 400.141(13), F.S., relating to a requirement to post certain information in nursing homes; repealing s. 408.809(3), F.S., relating to the granting of a provisional license while awaiting the results of a background screening; repealing s. 429.08(2), F.S., deleting a provision relating to local workgroups of field offices of the Agency for Health Care Administration; repealing s. 429.41(5), F.S., relating to agency inspections; amending ss. 430.80 and 651.118, F.S.; conforming cross-references; providing an appropriation and authorizing additional positions; providing an effective date.

**House Amendment 1 (820601)(with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record *are exempt from the provisions of s. 119.07(1) and* shall be made and issued only for departmental administrative purposes; for the issuance of duplicate licenses; in response to law enforcement agency requests; to the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters in accordance with ss. 98.045 and 98.075; to the Department of Revenue pursuant to an interagency agreement for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases; *to the Department of Children and Family Services pursuant to an interagency agreement to conduct protective investigations under chapter 415;* or to the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, and the identification of fraudulent or false claims~~, and are exempt from the provisions of s. 119.07(1)~~.

Section 2. Subsection (2) of section 415.103, Florida Statutes, is amended to read:

415.103 Central abuse hotline.—

(2) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of a vulnerable adult, the central abuse hotline *shall* ~~must~~ determine if the report requires an immediate onsite protective investigation.

*(a)* For reports requiring an immediate onsite protective investigation, the central abuse hotline must immediately notify the department's designated protective investigative district staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.

*(b)* For reports not requiring an immediate onsite protective investigation, the central abuse hotline must notify the department's designated protective investigative district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification ~~of district staff with respect to the report~~, the central abuse hotline must also provide any ~~known information on any~~ previous *reports* ~~report~~ concerning *the* ~~a~~ subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

*(c) If the report is of known or suspected abuse of a vulnerable adult by someone other than a relative, caregiver, or household member, the report shall be immediately transferred to the appropriate county sheriff's office.*

Section 3. Paragraph (e) of subsection (1) and paragraph (g) of subsection (2) of section 415.1051, Florida Statutes, are amended to read:

415.1051 Protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.—

(1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.—If the department has reasonable cause to believe that a vulnerable adult or a vulnerable adult in need of services is being abused, neglected, or exploited and is in need of protective services but lacks the capacity to consent to protective services, the department shall petition the court for an order authorizing the provision of protective services.

(e) Continued protective services.—

1. *Within* ~~No more than~~ 60 days after the date of the order authorizing the provision of protective services, the department shall petition the court to determine whether:

a. Protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult pursuant to this subsection;

b. Protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Protective services *are to* ~~will~~ be discontinued; or

d. A petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744.

2. If the court determines that a petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744, the court, for good cause shown, may order continued protective services until it makes a determination regarding capacity.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

(2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the department has reasonable cause to believe that a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury to the vulnerable adult and that the vulnerable adult lacks the capacity to consent to emergency protective services, the department may take action under this subsection. If the vulnerable adult has the capacity to consent and refuses consent to emergency protective services, emergency protective services may not be provided.

(g) Continued emergency protective services.—

1. *Within* ~~Not more than~~ 60 days after the date of the order authorizing the provision of emergency protective services, the department shall petition the court to determine whether:

a. Emergency protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult;

b. Emergency protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Emergency protective services *are to* ~~will~~ be discontinued; or

d. A petition *shall* ~~should~~ be filed under chapter 744.

2. If it is decided to file a petition under chapter 744, for good cause shown, the court may order continued emergency protective services until a determination is made by the court.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

Section 4. Section 415.112, Florida Statutes, is amended to read:

415.112 *Specific rulemaking authority* ~~Rules for implementation of ss. 415.101-415.113.~~—The department shall *adopt* ~~promulgate~~ rules *to administer this chapter, including, but not limited to:* ~~for the implementation of ss. 415.101-415.113.~~

*(1) Background screening of department employees and applicants for employment, which shall include a criminal records check and drug testing of adult protective investigators and adult protective investigator supervisors.*

*(2) Reporting of adult abuse, neglect, and exploitation; reporting of a vulnerable adult in need of services; false reporting; and adult protective investigations.*

*(3) Confidentiality and retention of department records, access to records, and record requests.*

*(4) Injunctions and other protective orders.*

*(5) The provision of emergency and nonemergency protective services intervention.*

*(6) Agreements with law enforcement and other state agencies.*

*(7) Legal and casework procedures, including, but not limited to, diligent search, petitions, emergency removals, capacity to consent, and adult protection teams.*

*(8) Legal and casework management of cases involving protective supervision, protective orders, judicial reviews, administrative reviews, case plans, and documentation requirements.*

*(9) The coordination of casework with the following agencies as appropriate to the individual situation: the Agency for Health Care Administration, the Department of Elderly Affairs, the area agency on aging, the Nursing Home Diversion or Medicaid waiver program provider, the Florida Senior Care provider, and other relevant agencies or organizations, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or chapter 429.*

Section 5. Paragraphs (k) and (l) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 429.28, Florida Statutes, are amended to read:

429.28 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to:

(k) *Receive* at least 45 days' *written* notice of relocation or termination of residency from the *licensee as provided in s. 429.285, unless the relocation or termination of residency is initiated by the resident or the resident designee;* ~~facility unless,~~ for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care*;* or the resident engages in a pattern of conduct that is harmful or offensive to other residents. ~~In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for relocation shall be set forth in writing.~~ In order for a *licensee* ~~facility~~ to terminate the residency of an individual without notice as provided *in this paragraph* ~~herein~~, the *licensee* ~~facility~~ shall show good cause in a court of competent jurisdiction. *Admission to a facility licensed under this part may not be condi-*

*tioned upon a waiver of such right, and any document or provision in a document that purports to waive or preclude such right is void and unenforceable.*

(l) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. Each *licensee* ~~facility~~ shall establish a *written* grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. *Each licensee shall maintain a written log of grievances that shall be available for inspection and shall be maintained for at least 2 years. Residents may provide verbal or written grievances.*

(2) The administrator of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. This notice shall include the name, address, and telephone numbers of the local ombudsman council and central abuse hotline and, when applicable, the Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council, where complaints may be lodged. The *licensee* ~~facility~~ must ensure a resident's access to a telephone to call the local ombudsman council, central abuse hotline, Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council.

(3)

(b) In order to determine whether the *licensee* ~~facility~~ is adequately protecting residents' rights, the biennial survey shall include private informal conversations with a sample of residents and consultation with the ombudsman council in the planning and service area in which the facility is located to discuss residents' experiences within the facility.

Section 6. Section 429.285, Florida Statutes, is created to read:

*429.285 Resident relocation or termination of residency; requirements and procedures.—*

*(1) A facility licensed under this part must permit a resident to remain in the facility. Relocation or termination of residency of a resident may not occur unless:*

*(a) The relocation or termination of residency is necessary for the resident's welfare and the resident's needs cannot be met in the facility;*

*(b) The relocation or termination of residency is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility;*

*(c) The health and safety of other residents or facility employees would be endangered;*

*(d) The resident has failed, after at least 30 days' notice, to provide payment for his or her stay in the facility;*

*(e) The facility ceases to operate;*

*(f) There is a documented pattern of harmful and offensive behavior by the resident; or*

*(g) The contract provided for under s. 429.24(1) between the licensee and the resident expires on its own terms.*

*(2) When a relocation or termination of residency is initiated by the licensee, the administrator that is relocating the resident or terminating residency, or an individual employed by the facility who is designated by the administrator to act on behalf of the administration, must sign the notice of relocation or termination of residency. Any notice indicating a medical reason for relocation or termination of residency must be signed by the resident's physician or include an attached physician's written order for the relocation or termination of residency.*

*(3) At least 45 days prior to a proposed relocation or termination of residency, a licensee must provide by certified mail advance written notice of the proposed relocation or termination of residency to the resident and, if known, to a family member or the resident's legal guardian or representative.*

*(4) The notice must be in writing and contain all information required by state and federal laws, rules, and regulations. A copy of the notice must be placed in the resident's file. The agency shall develop a standard form to be used by all facilities licensed under this part for purposes of notifying residents of a relocation or termination of residency. In addition to any other pertinent information included, the form shall:*

*(a) Specify the reason allowed under state law justifying the relocation or termination of the residency, with an explanation to support this action.*

*(b) State the effective date of the relocation or termination of residency and the location to which the resident is being relocated.*

*(c) Include the right and means to request the local long-term care ombudsman council to review the notice of relocation or termination of residency.*

*(5) A relocation or termination of residency notice initiated by a licensee must be reported to the Office of State Long-Term Care Ombudsman by mail, electronic mail, or facsimile within 5 business days after a resident's receipt of a notice to relocate or terminate residency. The Office of State Long-Term Care Ombudsman shall compile and publish the information collected from such notices in the annual report required by s. 400.0065(2)(i). A resident may request that the local long-term care ombudsman council review any notice of relocation or termination of residency given to the resident. When requested by a resident to review such notice, the local long-term care ombudsman council shall do so within 5 business days after receipt of the request.*

*(6) In the event of an emergency relocation or termination of residency, as provided under s. 429.28(1)(k), notice shall be provided to the resident, the resident's legal guardian or representative, and the local long-term care ombudsman council by telephone or in person. The written notice shall be given before the relocation or termination of residency, if possible, and no later than 5 business days after the relocation or termination of residency. A local long-term care ombudsman council conducting a review under this section shall do so within 2 business days after receipt of the request. The resident's file must include documentation indicating who was contacted, whether the contact was by telephone or in person, and the date and time of the contact.*

*(7) After receipt of a notice required under this section, the local long-term care ombudsman council may request a private informal conversation with a resident to whom the notice is directed, and, if known, a family member or the resident's legal guardian or representative, to ensure that the licensee is proceeding with the relocation or termination of residency in accordance with the requirements of this section.*

*(8) The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.*

Section 7. Paragraphs (b) and (c) of subsection (3) of section 429.07, Florida Statutes, are amended to read:

429.07 License required; fee.—

(3) In addition to the requirements of s. 408.806, each license granted by the agency must state the type of care for which the license is granted. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to part I of chapter 464 by persons licensed thereunder, and supportive services defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II of chapter 408. Existing facilities quali-

fying to provide extended congregate care services must have maintained a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium pursuant to this part or part II of chapter 408 or initiation of injunctive proceedings.

2. Facilities that are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least quarterly to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part, part II of chapter 408, and rules that relate to extended congregate care. One of these visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities that are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to part I of chapter 464.

h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services are exempt from the criteria for continued residency as set forth in rules adopted under s. 429.41. Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by rule. However, such facilities may not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 429.26(4) and the facility must develop a preliminary service plan for the individual.

7. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. *429.285* ~~429.28(1)(k)~~.

8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during licensure inspections.

e. The number of residents who required extended congregate care services at admission and the source of admission.

f. Recommendations for statutory or regulatory changes.

g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h. Such other information as the department considers appropriate.

(c) A limited nursing services license shall be issued to a facility that provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. In order for limited nursing services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II of chapter 408. Existing facilities qualifying to provide limited nursing services shall have maintained a standard license and may not have been subject to administrative sanctions that affect the health, safety, and welfare of residents for the

previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

2. Facilities that are licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit such facilities at least twice a year to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part, part II of chapter 408, and related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that inspects such facility.

3. A person who receives limited nursing services under this part must meet the admission criteria established by the agency for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. *429.285* ~~429.28(1)(k)~~ , unless the facility is licensed to provide extended congregate care services.

Section 8. Subsection (1) of section 429.31, Florida Statutes, is amended to read:

429.31 Closing of facility; notice; penalty.—

(1) In addition to the requirements of part II of chapter 408, the facility shall inform each resident or the next of kin, legal representative, or agency acting on each resident's behalf, of the fact and the proposed time of discontinuance of operation, following the notification requirements provided in s. *429.285* ~~429.28(1)(k)~~. In the event a resident has no person to represent him or her, the facility shall be responsible for referral to an appropriate social service agency for placement.

Section 9. This act shall take effect October 1, 2008.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to adult protection and care; amending s. 322.142, F.S.; authorizing the Department of Children and Family Services to obtain copies of driver's license files maintained by the Department of Highway Safety and Motor Vehicles for the purpose of conducting protective investigations; amending s. 415.103, F.S.; requiring that reports to the central abuse hotline relating to vulnerable adults be transferred to the county sheriff's office under certain circumstances; amending s. 415.1051, F.S.; authorizing the Department of Children and Family Services to file a petition within 60 days to determine incapacity in adult protection proceedings; prohibiting the department from serving as the guardian or providing legal counsel to the guardian under certain circumstances; amending s. 415.112, F.S.; providing authority and requirements for department rules; amending s. 429.28, F.S.; revising and specifying certain conditions in an assisted living facility's resident bill of rights for a resident's relocation or termination of residency; creating s. 429.285, F.S.; prohibiting resident relocation or termination of residency in the absence of certain specified conditions; requiring the administrator or employee of a facility to sign a notice of relocation or termination of residency and requiring a physician's signature under certain circumstances; requiring a licensee to provide advance written notice to the resident and other specified persons regarding relocation or termination of residency; providing that the notice contain certain information; providing for the creation of a form to submit relocation or termination of residency information and specifying information to be included therein; requiring a licensee to report relocation or termination of residency to the Office of State Long-term Care Ombudsman within a certain timeframe; permitting residents to seek the assistance of the local long-term care ombudsmen council in reviewing a notice of relocation or termination of residency; providing for emergency relocation and termination of residency; permitting the local long-term care ombudsmen council to request private informal contact with a resident upon receipt of a notice of relocation or termination of residency; authorizing the agency to adopt rules; amending ss. 429.07 and 429.31, F.S.; conforming cross-references; providing an effective date.

Senator Storms moved the following amendment:

**Senate Amendment 1 (806500) (with title amendment) to House Amendment 1**—Delete line(s) 5-521 and insert:

Section 1. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record *are exempt from the provisions of s. 119.07(1) and* shall be made and issued only for departmental administrative purposes; for the issuance of duplicate licenses; in response to law enforcement agency requests; to the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters in accordance with ss. 98.045 and 98.075; to the Department of Revenue pursuant to an interagency agreement for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases; *to the Department of Children and Family Services pursuant to an interagency agreement to conduct protective investigations under chapter 415;* or to the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, and the identification of fraudulent or false claims~~, and are exempt from the provisions of s. 119.07(1)~~.

Section 2. Effective April 1, 2009, subsection (25) is added to section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

*(25) Conduct a search of the Department of Law Enforcement's sexual offender database for each prospective resident before admission or immediately after admission. A facility must maintain verification that all residents have been screened. The information obtained may be used by the facility to assess the needs of the resident and to provide adequate and appropriate health care and protective and support services in accordance with this part. The information obtained may be disclosed to other residents. The facility does not have to rescreen a resident who is away from a facility for no more than 45 days.*

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

Section 3. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes~~,~~ and *related* ~~with~~ rules ~~promulgated under the provisions of those statutes,~~ governing minimum standards of construction, quality and adequacy of care, and rights of residents. The survey shall be conducted every 6 months for the next 2-year period if the facility has been cited for a class I deficiency, has been cited for two or more class II deficiencies arising from separate surveys or investigations within a 60-day period, or has had three or more substantiated complaints within a 6-month period, each resulting in at least one class I or class II deficiency. In addition to any other fees or fines in this part, the agency shall assess a fine for each facility that is subject to the 6-month survey cycle. The fine for the 2-year period shall be $6,000, one-half to be paid at the completion of each survey. The agency may adjust this fine by the change in the Consumer Price Index, based on the 12 months immediately preceding the *change* ~~increase~~, to cover the cost of the additional surveys. The agency shall verify through subsequent inspection that any deficiency identified during inspection is corrected. However, the agency may verify the correction of a class III or class IV deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. ~~The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person~~

~~shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 110.~~

Section 4. Effective April 1, 2009, section 400.215, Florida Statutes, is amended to read:

400.215 *Background* ~~Personnel~~ screening ~~requirement~~.—

(1) ~~The agency shall require~~ Background screening as provided in chapter 435 *is required* for all *nursing home facility* employees ~~or prospective employees of facilities licensed under this part~~ who are expected to, or whose responsibilities may require them to:

(a) Provide personal care or services to residents;

(b) Have access to resident living areas; or

(c) Have access to resident funds or other personal property.

*(2) Background screening as provided in chapter 435 is required for all nursing home facility contracted workers who are expected to, or whose responsibilities may require them to, provide personal care or services to residents. The facility shall maintain verification that such contracted workers have been screened pursuant to this section. The facility may either obtain a copy of the qualifying screening results from the entity or receive an affidavit from the entity which specifies that a background screen has been performed on all contracted workers sent to the facility. Contracted workers who do not provide personal care or services to residents are not required to be screened pursuant to this section but must sign in at the reception desk or nurses' station upon entering the facility, wear an identification badge while on the premises, and sign out before leaving the facility. The nursing facility shall maintain a log containing the information collected.*

*(3)*~~(2)~~ Employers*,* ~~and~~ employees*, contractors, and contracted workers* shall comply with the requirements of s. 435.05.

(a) Notwithstanding ~~the provisions of~~ s. 435.05(1), facilities must have in their possession evidence that level 1 screening *under s. 435.03* has been completed before allowing an employee *or contracted worker* to begin *employment in the facility* ~~working with patients~~ as provided in subsection (1). All information necessary for conducting *level 1* ~~background~~ screening ~~using level 1 standards as specified in s. 435.03~~ shall be submitted by the nursing facility to the agency. Results of the background screening shall be provided by the agency to the requesting nursing facility.

(b) Employees *and contracted workers* qualified under ~~the provisions of~~ paragraph (a) who have not maintained continuous residency within the state for the 5 years immediately preceding the date of request for background screening must complete level 2 screening, as provided in *s. 435.04* ~~chapter 435~~. ~~Such~~ Employees may work in a conditional status *for* up to 180 days pending the receipt of written findings evidencing the completion of level 2 screening. *Contracted workers who are awaiting the completion of level 2 screening may work only under the direct and visual supervision of persons who have met the screening requirements of this section.* Level 2 screening *is* ~~shall~~ not ~~be~~ required *for* ~~of~~ employees*,* ~~or~~ prospective employees*, or contracted workers* who attest in writing under penalty of perjury that they meet the residency requirement. *To complete* ~~Completion of~~ level 2 screening*:* ~~shall require~~

*1.* The employee or *contracted worker shall* ~~prospective employee to~~ furnish to the nursing facility a full set of fingerprints *for conducting a federal criminal records check* ~~to enable a criminal background investigation to be conducted~~.

*2.* The nursing facility shall submit the completed fingerprint card to the agency.

*3.* The agency shall establish a record of the request in the database provided for in paragraph (c) and forward the request to the Department of Law Enforcement, which is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history records check.

*4.* The results of the national criminal history records check shall be returned to the agency, which shall maintain the results in the database provided for in paragraph (c).

*5.* The agency shall notify the administrator of the requesting nursing facility or the administrator of any other *requesting* facility licensed under chapter 393, chapter 394, chapter 395, chapter 397, chapter 429, or this chapter~~, as requested by such facility,~~ as to whether ~~or not~~ the employee has qualified under level 1 or level 2 screening.

An employee or *contracted worker* ~~prospective employee~~ who has qualified under level 2 screening and has maintained ~~such~~ continuous residency within the state *is* ~~shall~~ not ~~be~~ required to complete a subsequent level 2 screening as a condition of employment at another facility.

(c) The agency shall establish and maintain a database *that includes* ~~of background screening information which shall include~~ the results of *all* ~~both~~ level 1 and level 2 screening. The Department of Law Enforcement shall timely provide to the agency, electronically, the results of each statewide screening for incorporation into the database. The agency shall, upon request from any facility, agency, or program required by or authorized by law to screen its employees or *contracted workers* ~~applicants~~, notify the administrator of the facility, agency, or program of the qualifying or disqualifying status of the *person* ~~employee or applicant~~ named in the request.

(d) ~~Applicants and~~ Employees*, prospective employees, and contracted workers* shall be excluded from employment pursuant to s. 435.06*, and may not be employed or resume employment until exempted or all appeals have been resolved in favor of the person screened. However, an employee of a nursing facility, employed prior to October 1, 1998, who is determined to have a disqualifying offense occurring after October 1, 1998, may continue employment pending the outcome of an exemption request if such request is made within 30 days of receipt of the results of the background screening. An employee of a nursing facility, employed before October 1, 1998, who is determined to have a disqualifying offense before October 1, 1998, but does not have a disqualifying offense after that date, is not required to submit an exemption request pursuant to s. 435.07 and may continue his or her employment.*

*Notwithstanding chapter 435, the agency may not provide to the employer the results of background screening for offenses occurring prior to October 1, 1998, for persons employed before October 1, 1998, except for an absolute disqualifying offense. For the purposes of this section, the term "absolute disqualifying offense" means a felony offense pursuant to s. 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035; s. 800.04, except for crimes identified in ss. 800.04(7)(c) and (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s. 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07, a person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to an absolute disqualifying offense may not be granted an exemption from disqualification from employment. Neither the agency nor an employer is required to rescreen or reevaluate qualifications for employment of a person who was screened by that employer and continuously employed before April 1, 2009.*

*(4)*~~(3)~~ The *person being screened* ~~applicant~~ is responsible for paying the fees associated with obtaining the required screening. Payment for the screening shall be submitted to the agency. The agency shall establish a schedule of fees to cover the costs of level 1 and level 2 screening. Facilities may *pay* ~~reimburse employees~~ for these costs. The Department of Law Enforcement shall charge the agency for a level 1 or level 2 screening a rate sufficient to cover the costs of ~~such~~ screening pursuant to s. 943.053(3). The agency shall, as allowable, reimburse nursing facilities for the cost of conducting background screening as required by this section. This reimbursement *is* ~~will~~ not ~~be~~ subject to any rate ceilings or payment targets in the Medicaid Reimbursement plan.

*(5)*~~(4)(a)~~ As provided in s. 435.07*:*~~,~~

*(a)* The agency may grant an exemption from disqualification to an employee*,* ~~or~~ prospective employee*, or contracted worker* who is subject to this section and who has not received a professional license or certification from the Department of Health.

(b) ~~As provided in s. 435.07,~~ The appropriate regulatory board within the Department of Health, or that department itself when there is no board, may grant an exemption from disqualification to an employee*,* ~~or~~ prospective employee*, or contracted worker* who is subject to this section and who has received a professional license or certification from the Department of Health or a regulatory board within that department.

*(6)*~~(5)~~ ~~Any provision of law to the contrary notwithstanding,~~ Persons who have been screened and qualified as required by this section*,* ~~and~~ who have not been unemployed for more than 180 days ~~thereafter~~, and who*,* under penalty of perjury*,* attest to not having been convicted of a disqualifying offense since the completion of such screening *are*~~, shall~~ not ~~be~~ required to be rescreened. An employer may obtain, pursuant to s. 435.10, written verification of qualifying screening results from the previous employer*, contractor,* or other entity *that* ~~which~~ caused *the* ~~such~~ screening to be performed.

*(7)*~~(6)~~ The agency and the Department of Health *may* ~~shall have authority to~~ adopt rules *to administer* ~~pursuant to the Administrative Procedure Act to implement~~ this section.

~~(7) All employees shall comply with the requirements of this section by October 1, 1998. No current employee of a nursing facility as of the effective date of this act shall be required to submit to rescreening if the nursing facility has in its possession written evidence that the person has been screened and qualified according to level 1 standards as specified in s. 435.03(1). Any current employee who meets the level 1 requirement but does not meet the 5-year residency requirement as specified in this section must provide to the employing nursing facility written attestation under penalty of perjury that the employee has not been convicted of a disqualifying offense in another state or jurisdiction. All applicants hired on or after October 1, 1998, shall comply with the requirements of this section.~~

(8) There is no monetary or unemployment liability on the part of, and *a* ~~no~~ cause of action for damages *does not arise* ~~arising~~ against*,* an employer that, upon notice of a disqualifying offense listed under chapter 435 or an act of domestic violence, terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the Department of Health or the agency ~~for Health Care Administration~~.

Section 5. Subsection (6) is added to section 408.809, Florida Statutes, to read:

408.809 Background screening; prohibited offenses.—

*(6) The agency shall establish a schedule of fees to cover the costs of any level 1 or level 2 screening required pursuant to this part or other authorizing statutes and may adopt rules to carry out these screenings and for the schedule of fees.*

Section 6. Subsection (5) of section 408.810, Florida Statutes, is amended to read:

408.810 Minimum licensure requirements.—In addition to the licensure requirements specified in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with the requirements of this section in order to obtain and maintain a license.

(5) *Each licensee must:*

(a) On or before the first day services are provided to a client, ~~a licensee must~~ inform the client and his or her immediate family or representative, if appropriate, of the right to report:

1. Complaints. The statewide toll-free telephone number for reporting complaints to the agency must be provided to clients in a manner that is clearly legible and must include the words: "To report a complaint regarding the services you receive, please call toll-free (phone number)."

2. Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provided to clients in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free (phone number)." The agency shall publish a minimum of a 90-day advance notice of a change in the toll-free telephone numbers.

(b) ~~Each licensee shall~~ Establish appropriate policies and procedures for providing such notice to clients.

*(c) Publicly display a poster approved by the agency containing the names, addresses, and telephone numbers for the state's central abuse hotline, the State Long-Term Care Ombudsman, the agency's consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, along with a clear description of the assistance to be expected from each. The Statewide Public Guardianship Office and its website shall also be listed. The agency shall make the poster available on the Internet. Providers may download the poster, at no charge, from the agency's website.*

Section 7. Section 408.811, Florida Statutes, is amended to read:

408.811 Right of inspection; copies; inspection reports.—

(1) An authorized officer or employee of the agency may make or cause to be made any inspection or investigation deemed necessary by the agency to determine the state of compliance with this part, authorizing statutes, and applicable rules. The right of inspection extends to any business that the agency has reason to believe is being operated as a provider without a license, but inspection of any business suspected of being operated without the appropriate license may not be made without the permission of the owner or person in charge unless a warrant is first obtained from a circuit court. Any application for a license issued under this part, authorizing statutes, or applicable rules constitutes permission for an appropriate inspection to verify the information submitted on or in connection with the application.

(a) All inspections shall be unannounced, except as specified in s. 408.806. *The giving or causing to be given of advance notice of the unannounced inspection by an agency employee to any unauthorized person shall, in accordance with chapter 110, constitute cause for suspension of the employee for at least 5 working days.*

(b) Inspections for relicensure shall be conducted biennially unless otherwise specified by authorizing statutes or applicable rules.

*(c) Deficiencies found during an inspection or investigation must be corrected within 30 days unless an alternative timeframe is required or approved by the agency.*

*(d) The agency may require an applicant or licensee to submit a plan of correction for deficiencies. If required, the plan of correction must be filed with the agency within 10 days unless an alternative timeframe is required.*

(2) Inspections conducted in conjunction with certification may be accepted in lieu of a complete licensure inspection. However, a licensure inspection may also be conducted to review any licensure requirements that are not also requirements for certification.

(3) The agency shall have access to and the licensee shall provide copies of all provider records required during an inspection at no cost to the agency.

(4)(a) Each licensee shall maintain as public information, available upon request, records of all inspection reports pertaining to that provider that have been filed by the agency unless those reports are exempt from or contain information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution or is otherwise made confidential by law. Effective October 1, 2006, copies of such reports shall be retained in the records of the provider for at least 3 years following the date the reports are filed and issued, regardless of a change of ownership.

(b) A licensee shall, upon the request of any person who has completed a written application with intent to be admitted by such provider, any person who is a client of such provider, or any relative, spouse, or guardian of any such person, furnish to the requester a copy of the last inspection report pertaining to the licensed provider that was issued by the agency or by an accrediting organization if such report is used in lieu of a licensure inspection.

*(c) As an alternative to sending reports required by this part or authorizing statutes, the agency may provide electronic access to information or documents.*

Section 8. Subsection (2) of section 415.103, Florida Statutes, is amended to read:

415.103 Central abuse hotline.—

(2) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of a vulnerable adult, the central abuse hotline *shall* ~~must~~ determine if the report requires an immediate onsite protective investigation.

*(a)* For reports requiring an immediate onsite protective investigation, the central abuse hotline must immediately notify the department's designated protective investigative district staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.

*(b)* For reports not requiring an immediate onsite protective investigation, the central abuse hotline must notify the department's designated protective investigative district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification ~~of district staff with respect to the report~~, the central abuse hotline must also provide any ~~known information on any~~ previous *reports* ~~report~~ concerning *the* ~~a~~ subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

*(c) If the report is of known or suspected abuse of a vulnerable adult by someone other than a relative, caregiver, or household member, the call shall be immediately transferred to the appropriate county sheriff's office.*

Section 9. Paragraph (e) of subsection (1) and paragraph (g) of subsection (2) of section 415.1051, Florida Statutes, are amended to read:

415.1051 Protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.—

(1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.—If the department has reasonable cause to believe that a vulnerable adult or a vulnerable adult in need of services is being abused, neglected, or exploited and is in need of protective services but lacks the capacity to consent to protective services, the department shall petition the court for an order authorizing the provision of protective services.

(e) Continued protective services.—

1. *Within* ~~No more than~~ 60 days after the date of the order authorizing the provision of protective services, the department shall petition the court to determine whether:

a. Protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult pursuant to this subsection;

b. Protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Protective services *are to* ~~will~~ be discontinued; or

d. A petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744.

2. If the court determines that a petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744, the court, for good cause shown, may order continued protective services until it makes a determination regarding capacity.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

(2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the department has reasonable cause to believe that a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury to the vulnerable adult and that the vulnerable adult lacks the capacity to consent to emergency protective services, the department may take action under this subsection. If the vulnerable adult has the capacity to consent and refuses consent to emergency protective services, emergency protective services may not be provided.

(g) Continued emergency protective services.—

1. *Within* ~~Not more than~~ 60 days after the date of the order authorizing the provision of emergency protective services, the department shall petition the court to determine whether:

a. Emergency protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult;

b. Emergency protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Emergency protective services *are to* ~~will~~ be discontinued; or

d. A petition *shall* ~~should~~ be filed under chapter 744.

2. If it is decided to file a petition under chapter 744, for good cause shown, the court may order continued emergency protective services until a determination is made by the court.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

Section 10. Section 415.112, Florida Statutes, is amended to read:

415.112 Rules ~~for implementation of ss. 415.101-415.113~~.—The department shall *adopt* ~~promulgate~~ rules *to administer this chapter including, but not limited to:* ~~for the implementation of ss. 415.101-415.113.~~

*(1) Background screening of department employees and employee applicants which includes a criminal records check and drug testing of adult protective investigators and adult protective investigator supervisors.*

*(2) The reporting of adult abuse, neglect, exploitation, a vulnerable adult in need of services, false reporting, and adult protective investigations.*

*(3) Confidentiality and retention of department records, access to records, and record requests.*

*(4) Injunctions and other protective orders.*

*(5) The provision of emergency and nonemergency protective services intervention.*

*(6) Agreements with law enforcement and other state agencies.*

*(7) Legal and casework procedures, including, but not limited to, diligent search, petitions, emergency removals, capacity to consent, and adult protection teams.*

*(8) The legal and casework management of cases involving protective supervision, protective orders, judicial reviews, administrative reviews, case plans, and documentation requirements.*

Section 11. Paragraphs (b) and (c) of subsection (3) of section 429.07, Florida Statutes, are amended to read:

429.07 License required; fee.—

(3) In addition to the requirements of s. 408.806, each license granted by the agency must state the type of care for which the license is granted. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including *services performed by persons licensed under* ~~acts performed pursuant to~~ part I of chapter 464 ~~by persons licensed thereunder~~, and supportive services*, as* defined by rule*,* to persons who *would* otherwise ~~would~~ be disqualified from continued residence in a facility licensed under this part.

1. *To obtain an* ~~In order for~~ extended congregate care *license* ~~services to be provided in a facility licensed under this part~~, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of *the* ~~a~~ facility. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of *the* ~~such~~ request shall be made in accordance with part II of chapter 408. ~~Existing~~

*2.* Facilities *applying for, and facilities currently licensed* ~~qualifying~~ to provide*,* extended congregate care services must have ~~maintained~~ a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards *which result in requiring the facility* ~~resulting in a requirement~~ to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility *licensed* under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium pursuant to this part or part II of chapter 408 or initiation of injunctive proceedings.

*3.*~~2.~~ *A facility that is* ~~Facilities that are~~ licensed to provide extended congregate care services *must* ~~shall~~ maintain a written progress report on each person who receives ~~such~~ services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit *the facility* ~~such facilities~~ at least quarterly to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part, part II of chapter 408, and rules that relate to extended congregate care. One of these visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects *the* ~~such~~ facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. ~~Before such decision is made,~~ The agency *must first* ~~shall~~ consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

*4.*~~3.~~ Facilities that are licensed to provide extended congregate care services *must* ~~shall~~:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency~~, as necessary~~.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place ~~to the extent possible~~, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, ~~either~~ directly or through contract, the services of a person licensed pursuant to part I of chapter 464.

h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

*5.*~~4.~~ Facilities licensed to provide extended congregate care services are exempt from the criteria for continued residency ~~as~~ set forth in rules adopted under s. 429.41. Facilities so licensed *must* ~~shall~~ adopt their own requirements within guidelines for continued residency set forth by rule. However, such facilities may not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services *must* ~~shall~~ provide each resident with a written copy of facility policies governing admission and retention.

*6.*~~5.~~ The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.

*7.*~~6.~~ Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination ~~as provided in s. 429.26(4)~~ and the facility must develop a preliminary service plan for the individual *as provided in s. 429.26*.

*8.*~~7.~~ When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 429.28(1)(k).

*9.*~~8.~~ Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

~~9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:~~

~~a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.~~

~~b. The number and characteristics of residents receiving such services.~~

~~c. The types of services rendered that could not be provided through a standard license.~~

~~d. An analysis of deficiencies cited during licensure inspections.~~

~~e. The number of residents who required extended congregate care services at admission and the source of admission.~~

~~f. Recommendations for statutory or regulatory changes.~~

~~g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.~~

~~h. Such other information as the department considers appropriate.~~

(c) A limited nursing services license shall be issued to a facility that provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. *To obtain a* ~~In order for~~ limited nursing services *license* ~~to be provided in a facility licensed under this part~~, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II of chapter 408. ~~Existing~~

*2.* Facilities *applying for, and facilities currently licensed* ~~qualifying~~ to provide*,* limited nursing services *must* ~~shall~~ have ~~maintained~~ a standard license and may not have been subject to administrative sanctions that affect the health, safety, and welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

*3.*~~2.~~ Facilities that are licensed to provide limited nursing services shall maintain a written progress report on each person who receives ~~such~~ nursing services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit such facilities at least twice a year to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part, part II of chapter 408, and related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that inspects *the* ~~such~~ facility.

*4.*~~3.~~ A person who receives limited nursing services ~~under this part~~ must meet the admission criteria established by the agency for assisted living facilities. *If* ~~When~~ a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 429.28(1)(k), unless the facility is *also* licensed to provide extended congregate care services.

Section 12. Effective April 1, 2009, section 429.174, Florida Statutes, is amended to read:

429.174 Background screening; exemptions.—

*(1)* The owner or administrator of an assisted living facility must conduct level 1 ~~background~~ screening, as set forth in chapter 435, on all employees ~~hired on or after October 1, 1998,~~ who perform personal services *or who have access to resident living areas* ~~as defined in s. 429.02(16)~~. The agency may exempt an individual from ~~employment~~ disqualification as set forth in *s. 435.07* ~~chapter 435~~. *However, such person may not be employed or resume employment pending the granting of an exemption or until all appeals have been resolved in favor of the person screened. A person employed before October 1, 1998, who is determined to have a disqualifying offense occurring after October 1, 1998, may continue employment pending the outcome of an exemption request if such request is made within 30 days of receipt of the results of the background screening. A person employed before October 1, 1998, who is determined to have a disqualifying offense before October 1, 1998, but does not have a disqualifying offense after that date, is not required to submit an exemption request pursuant to s. 435.07 and may continue his or her employment. Employees* ~~Such persons~~ shall be considered as having met *the screening requirements* ~~this requirement~~ if:

*(a)*~~(1)~~ Proof of compliance with level 1 screening ~~requirements~~ obtained to meet ~~any~~ professional license requirements in this state is provided and accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

*(b)*~~(2)~~ The person required to be screened has been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service which exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old is provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided by the employer retaining documentation of the screening to the person screened.

*(c)*~~(3)~~ The person required to be screened is employed by a corporation or business entity or related corporation or business entity that owns, operates, or manages more than one facility or agency licensed under this chapter, and for whom a level 1 screening was conducted by the corporation or business entity as a condition of initial or continued employment.

*Notwithstanding chapter 435, the agency may not provide to the employer the results of background screening for offenses occurring prior to October 1, 1998, for persons employed before October 1, 1998, except for an absolute disqualifying offense. For the purposes of this section, the term "absolute disqualifying offense" means a felony offense pursuant to s. 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035; s. 800.04, except for crimes identified in ss. 800.04(7)(c) and (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s. 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07, a person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to an absolute disqualifying offense may not be granted an exemption from disqualification from employment. The agency or an employer is not required to rescreen or reevaluate qualifications for employment of a person who was screened by that employer and continuously employed before April 1, 2009.*

*(2) Level 1 screening as provided in chapter 435 is required for all contracted workers who are expected to, or whose responsibilities may require them to, provide personal services to residents. The facility shall maintain verification that such contracted workers have been screened pursuant to this section. The facility may either obtain a copy of the qualifying screening results from the entity or receive an affidavit from the entity which specifies that a background screen has been performed on all contracted workers sent to the facility. A contracted worker who does not provide personal services to residents is not required to be screened pursuant to this section but must sign in at the reception desk upon entering the facility, wear an identification badge while on the premises, and sign out before leaving the facility. The facility shall maintain a log containing the information collected.*

*(3) The person being screened is responsible for paying the fees associated with obtaining the required screening. Payment for the screening shall be submitted to the agency. The agency shall establish a schedule of fees to cover the costs of level 1 and level 2 screening. Facilities may reimburse employees or contracted workers for these costs. The Department of Law Enforcement shall charge the agency for a level 1 or level 2 screening a rate sufficient to cover the costs of screening pursuant to s. 943.053(3).*

Section 13. Subsection (1) of section 429.255, Florida Statutes, is amended to read:

429.255 Use of personnel; emergency care.—

(1)(a) *Facility staff, including* persons under contract to the facility, facility *employees* ~~staff~~, or volunteers, who are licensed according to part I of chapter 464, or those persons exempt under s. 464.022(1), and others as defined by rule, may administer medications to residents, take residents' vital signs, manage individual weekly pill organizers for residents who self-administer medication, give prepackaged enemas ordered by a physician, observe residents, document observations on the appropriate resident's record, report observations to the resident's physician, and contract or allow residents or a resident's representative, designee, surrogate, guardian, or attorney in fact to contract with a third party, provided residents meet the criteria for appropriate placement as defined in s. 429.26. Nursing assistants certified pursuant to part II of chapter 464 may take residents' vital signs as directed by a licensed nurse or physician.

(b) *Facility* ~~All~~ staff*, including persons under contract to the facility and facility employees* ~~in facilities licensed under this part~~ shall exercise their professional responsibility to observe residents, to document observations on the appropriate resident's record, ~~and~~ to report the observations to the resident's physician*, and to provide needed services competently*. However, the owner or administrator of the facility *is* ~~shall be~~ responsible for determining that the resident receiving services is appropriate for residence in the facility *and for the provision of and quality of care and services provided to the resident*.

(c) In an emergency situation, licensed personnel may carry out their professional duties pursuant to part I of chapter 464 until emergency medical personnel assume responsibility for care.

Section 14. Present subsections (8) through (12) of section 429.26, Florida Statutes, are renumbered as sections (6) through (10), respectively, and present subsections (1) through (7) of that section, are amended to read:

429.26 Appropriateness of placements; examinations of residents.—

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an

individual in the facility. A determination shall be based upon an assessment of the strengths, needs, and preferences of the resident, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. *Except as provided in s. 429.28(1)(k),* a resident may not be moved from one facility to another without consultation with and agreement from the resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. *If* ~~In the case of~~ a resident ~~who~~ has been placed by the department or the Department of Children and Family Services, the administrator must notify the appropriate contact person in the applicable department.

~~(2) A physician, physician assistant, or nurse practitioner who is employed by an assisted living facility to provide an initial examination for admission purposes may not have financial interest in the facility.~~

~~(3) Persons licensed under part I of chapter 464 who are employed by or under contract with a facility shall, on a routine basis or at least monthly, perform a nursing assessment of the residents for whom they are providing nursing services ordered by a physician, except administration of medication, and shall document such assessment, including any substantial changes in a resident's status which may necessitate relocation to a nursing home, hospital, or specialized health care facility. Such records shall be maintained in the facility for inspection by the agency and shall be forwarded to the resident's case manager, if applicable.~~

*(2)*~~(4)~~ If possible, each resident shall have been examined by a licensed physician, a licensed physician assistant, or a licensed nurse practitioner within 60 days before admission to the facility. *The person conducting an examination under this subsection may not have financial interest in the facility.* The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall use the information contained *in the report* ~~therein~~ to assist in *determining* ~~the determination of~~ the appropriateness of the resident's admission and continued stay in the facility *and to develop a plan for the provision of services for the resident. The plan must be reviewed and updated annually; however, for a resident receiving nursing services ordered by a physician, except administration of medication, the plan must be reviewed and updated quarterly and whenever a resident experiences a significant change in condition.* The medical examination report *and plan for services* shall *be reported on a single form provided by the agency or a community supported-living plan for mental health residents. The plan shall* become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection or upon request. An assessment that has been completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills the requirements for a medical examination under this subsection ~~and s. 429.07(3)(b)6~~.

*(a)*~~(5)~~ Except as provided in s. 429.07, if a medical examination has not been completed within 60 days before the admission of the resident to the facility, *medical personnel* ~~a licensed physician, licensed physician assistant, or licensed nurse practitioner~~ shall examine the resident and complete a medical examination form provided by the agency within 30 days following ~~the~~ admission to the facility ~~to enable the facility owner or administrator to determine the appropriateness of the admission~~. ~~The medical examination form shall become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection by the agency or upon request.~~

*(b)*~~(6)~~ Any resident accepted in a facility and placed by the department or the Department of Children and Family Services *must be* ~~shall have been~~ examined by medical personnel within 30 days before placement in the facility *and recorded on a medical examination form provided by the agency*. The examination shall include an assessment of the appropriateness of placement in a facility. ~~The findings of this examination shall be recorded on the examination form provided by the agency. The completed form shall accompany the resident and shall be submitted to the facility owner or administrator.~~ *For* ~~Additionally, in the case of~~ a mental health resident, the Department of Children and Family Services must provide documentation that the individual has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be in the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident providing it was completed within 90 days prior to admission to the facility. The applicable department shall provide to the facility administrator any information about the resident that would help the administrator meet his or her responsibilities under *this section* ~~subsection (1)~~. Further, department personnel shall explain to the facility operator any special needs of the resident and advise the operator whom to call should problems arise. The applicable department shall advise and assist the facility administrator where the special needs of residents who are recipients of optional state supplementation require such assistance.

*(3) Effective April 1, 2009, a search of the Department of Law Enforcement's sexual offender database for each prospective resident must be conducted by the facility before admission or immediately after admission. The facility must maintain verification that all residents have been screened. The information obtained may be used by the facility to assess the needs of the resident and the care and services offered or arranged by the facility in accordance with this section. The information obtained may be disclosed to other residents. The facility does not have to rescreen a resident who is away from a facility for not more than 45 days.*

*(4) Persons licensed under part I of chapter 464 who are employed by or under contract with a facility shall, at least monthly, perform a nursing assessment of residents for whom they are providing nursing services ordered by a physician, except administration of medication, and shall document such assessment, including any substantial change in a resident's status which may necessitate relocation to a nursing home, hospital, or specialized health care facility. The records must be maintained in the facility for inspection by the agency and shall be forwarded to the resident's case manager, if applicable.*

*(5)*~~(7)~~ *Residents shall be periodically assessed to determine if the resident is capable of handling his or her personal and financial affairs and, if not, whether a responsible person such as a resident representative or designee, guardian, surrogate, or attorney in fact is available to make decisions on behalf of the resident. If a resident is having difficulty handling his or her personal or financial affairs because of a decline in health or cognitive abilities, the owner or administrator shall contact the resident's representative or designee, guardian, surrogate, or attorney in fact. If a resident does not have family or a legal representative to make decisions on his or her behalf, the owner or administrator must contact the Florida Abuse Hotline.* The facility must notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgment of such signs by facility staff. If an underlying condition is determined to exist, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

Section 15. Subsections (3) through (8) of section 429.27, Florida Statutes, are renumbered as subsections (6) through (11), respectively, and subsections (1) and (2) of that section, are amended to read:

429.27 Property and personal affairs of residents.—

(1)~~(a)~~ A resident shall be given the option of using his or her own belongings, as space permits; choosing his or her roommate; and, whenever possible, unless the resident is adjudicated incompetent or incapacitated under state law, managing his or her own affairs.

*(2)*~~(b)~~ The admission of a resident to a facility *does* ~~and his or her presence therein shall~~ not confer on the facility or its owner, administrator, *staff* ~~employees~~, or representatives any authority to manage, use, or dispose of any property of the resident *or to make financial or health care decisions on behalf of the resident*~~; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident~~, except *if* ~~that which may be~~ necessary for the safe management of the facility or for the safety of the resident.

*(3)*~~(2)~~ A facility, or an owner, administrator, *staff* ~~employee~~, or representative thereof, may not act as the *resident's representative or designee,* guardian, *health care surrogate,* trustee, or conservator for *a* ~~any~~ resident ~~of the assisted living facility~~ or any of *the* ~~such~~ resident's property *unless the person is a relative of the resident*.

*(4) A facility* ~~An~~ owner, administrator, or staff member, or representative thereof, may not act as a competent resident's payee for social security, veteran's, or railroad benefits without the consent of the resident. Any facility ~~whose~~ owner, administrator, or staff, or representative thereof *who*~~,~~ serves as representative payee for *a* ~~any~~ resident *must* ~~of the facility shall~~ file a surety bond with the agency in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for *his or her* ~~their~~ account, which are received by a facility.

*(5)* Any facility ~~whose~~ owner, administrator, or staff, or ~~a~~ representative thereof *who*~~,~~ is granted power of attorney for *a* ~~any~~ resident *must* ~~of the facility shall~~ file a surety bond with the agency for each resident for whom such power of attorney is granted. The surety bond *must* ~~shall~~ be in an amount equal to twice the average monthly income of the resident, plus the value of any resident's property under the control of the attorney in fact. The bond *must* ~~shall~~ be executed by the facility as principal and a licensed surety company. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the agency for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation ~~by a facility~~ of funds held pursuant to this subsection. Any surety company that cancels or does not renew the bond of any licensee shall notify the agency in writing not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. Any facility owner, administrator, or staff, or representative thereof, who is granted power of attorney for *a* ~~any~~ resident ~~of the facility~~ shall, on a monthly basis, ~~be required to~~ provide the resident *with* a written statement of any transaction made on behalf of the resident pursuant to this subsection, and a copy of such statement ~~given to the resident~~ shall be retained in each resident's file and available for agency inspection.

Section 16. Paragraphs (k) and (l) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 429.28, Florida Statutes, are amended to read:

429.28 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to:

(k) *Receive* at least 45 days' *written* notice of relocation or termination of residency from the *licensee as provided in s. 429.285, unless the relocation or termination of residency is initiated by the resident or the resident designee;* ~~facility unless,~~ for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care*;* or the resident engages in a pattern of conduct that is harmful or offensive to other residents. ~~In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for relocation shall be set forth in writing.~~ In order for a *licensee* ~~facility~~ to terminate the residency of an individual without notice as provided *in this paragraph* ~~herein~~, the *licensee* ~~facility~~ shall show good cause in a court of competent jurisdiction. *Admission to a facility licensed under this part may not be conditioned upon a waiver of such right, and any document or provision in a document that purports to waive or preclude such right is void and unenforceable.*

(l) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. Each *licensee* ~~facility~~ shall establish a *written* grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. *Each licensee shall maintain a written log of grievances that shall be available for inspection and shall be maintained for at least 2 years. Residents may provide verbal or written grievances.*

(2) The administrator of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. This notice shall include the name, address, and telephone numbers of the local ombudsman council and central abuse hotline and, when applicable, the Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council, where complaints may be lodged. The *licensee* ~~facility~~ must ensure a resident's access to a telephone to call the local ombudsman council, central abuse hotline, Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council.

(3)

(b) In order to determine whether the *licensee* ~~facility~~ is adequately protecting residents' rights, the biennial survey shall include private informal conversations with a sample of residents and consultation with the ombudsman council in the planning and service area in which the facility is located to discuss residents' experiences within the facility.

Section 17. Section 429.285, Florida Statutes, is created to read:

*429.285 Resident relocation or termination of residency; requirements and procedures.—*

*(1) A facility licensed under this part must permit a resident to remain in the facility. Relocation or termination of residency of a resident may not occur unless:*

*(a) The relocation or termination of residency is necessary for the resident's welfare and the resident's needs cannot be met in the facility;*

*(b) The relocation or termination of residency is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility;*

*(c) The health and safety of other residents or facility employees would be endangered;*

*(d) The resident has failed, after at least 30 days' notice, to provide payment for his or her stay in the facility;*

*(e) The facility ceases to operate;*

*(f) There is a documented pattern of harmful and offensive behavior by the resident; or*

*(g) The contract provided for under s. 429.24(1) between the licensee and the resident expires on its own terms.*

*(2) When a relocation or termination of residency is initiated by the licensee, the administrator that is relocating the resident or terminating residency, or an individual employed by the facility who is designated by the administrator to act on behalf of the administration, must sign the notice of relocation or termination of residency. Any notice indicating a medical reason for relocation or termination of residency must be signed by the resident's physician or include an attached physician's written order for the relocation or termination of residency.*

*(3) At least 45 days prior to a proposed relocation or termination of residency, a licensee must provide by certified mail advance written notice of the proposed relocation or termination of residency to the resident and, if known, to a family member or the resident's legal guardian or representative.*

*(4) The notice must be in writing and contain all information required by state and federal laws, rules, and regulations. A copy of the notice must be placed in the resident's file. The agency shall develop a standard form to be used by all facilities licensed under this part for purposes of notifying residents of a relocation or termination of residency. In addition to any other pertinent information included, the form shall:*

*(a) Specify the reason allowed under state law justifying the relocation or termination of the residency, with an explanation to support this action.*

*(b) State the effective date of the relocation or termination of residency and the location to which the resident is being relocated.*

*(c) Include the right and means to request the local long-term care ombudsman council to review the notice of relocation or termination of residency.*

*(5) A relocation or termination of residency notice initiated by a licensee must be reported to the Office of State Long-Term Care Ombudsman by mail, electronic mail, or facsimile within 5 business days after a resident's receipt of a notice to relocate or terminate residency. The*

*Office of State Long-Term Care Ombudsman shall compile and publish the information collected from such notices in the annual report required by s. 400.0065(2)(i). A resident may request that the local long-term care ombudsman council review any notice of relocation or termination of residency given to the resident. When requested by a resident to review such notice, the local long-term care ombudsman council shall do so within 5 business days after receipt of the request.*

*(6) In the event of an emergency relocation or termination of residency, as provided under s. 429.28(1)(k), notice shall be provided to the resident, the resident's legal guardian or representative, and the local long-term care ombudsman council by telephone or in person. The written notice shall be given before the relocation or termination of residency, if possible, and no later than 5 business days after the relocation or termination of residency. A local long-term care ombudsman council conducting a review under this section shall do so within 2 business days after receipt of the request. The resident's file must include documentation indicating who was contacted, whether the contact was by telephone or in person, and the date and time of the contact.*

*(7) After receipt of a notice required under this section, the local long-term care ombudsman council may request a private informal conversation with a resident to whom the notice is directed, and, if known, a family member or the resident's legal guardian or representative, to ensure that the licensee is proceeding with the relocation or termination of residency in accordance with the requirements of this section.*

*(8) The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.*

Section 18. Subsection (1) of section 429.294, Florida Statutes, is amended to read:

429.294 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(1) Failure to provide complete copies of a resident's records, including, but not limited to, all medical records and the resident's chart, within the control or possession of the facility within 10 days~~, in accordance with the provisions of s. 400.145,~~ shall constitute evidence of failure of that party to comply with good faith discovery requirements and shall waive the good faith certificate and presuit notice requirements under this part by the requesting party.

Section 19. Section 429.34, Florida Statutes, is amended to read:

429.34 Right of entry and inspection.—In addition to the requirements of s. 408.811:~~,~~

*(1)* Any duly designated officer or employee of the department, the Department of Children and Family Services, the Medicaid Fraud Control Unit of the Office of the Attorney General, the state or local fire marshal, or a member of the state or local long-term care ombudsman council shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part, part II of chapter 408, and applicable rules. Data collected by the state or local long-term care ombudsman councils or the state or local advocacy councils may be used by the agency in investigations involving violations of regulatory standards.

*(2) Every 24 months the agency shall conduct at least one unannounced inspection to determine compliance with this chapter and related rules, including minimum standards of quality and adequacy of care and the rights of residents. Two additional surveys shall be conducted every 6 months for the next year if the facility has been cited for a class I deficiency or two or more class II deficiencies arising from separate surveys or investigations within a 60-day period. In addition to any fines imposed on a facility under s. 429.19, the agency shall assess a fine of $69 per bed for each of the additional two surveys, not to exceed $12,000 each. The agency shall adjust this fine by the change in the Consumer Price Index, based on the 12 months immediately preceding the change, to cover the cost of the additional two surveys. The agency shall verify through subsequent inspections that any deficiency identified during an inspection is corrected. However, the agency may verify the correction of a class III or class IV deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility which provides assurance that the deficiency has been corrected.*

Section 20. Present subsection (14) of section 429.65, Florida Statutes, is renumbered as subsection (15), and a new subsection (14) is added to that section, to read:

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

*(14) "Reside" means the licensee or applicant lives in the adult family care home as a primary residence. For purposes of this part, any two of the following documents that include the adult family care home address and the name of the licensee or applicant may be accepted by the agency as proof that the licensee or applicant resides in the adult family care home:*

*(a) Homestead exemption documentation;*

*(b) Lease or rental agreement accompanied by a corresponding utility bill; or*

*(c) Personal identification issued by a state or federal agency.*

Section 21. Subsection (4) of section 429.67, Florida Statutes, is amended to read:

429.67 Licensure.—

(4) Upon receipt of a completed license application or license renewal, and the fee, the agency shall initiate a level 1 background screening as provided under chapter 435 on the adult family-care home provider, the designated relief person, all adult household members, ~~and~~ all staff members*, and any other person who provides personal services to residents or who have routine access to the adult family-care home*.

(a) Proof of compliance with level 1 screening standards which has been submitted within the previous 5 years to meet any facility or professional licensure requirements of the agency or the Department of Health satisfies the requirements of this subsection. Such proof must be accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

(b) The person required to be screened must have been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service that exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old must be provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided to the person screened by the employer retaining documentation of the screening.

Section 22. Subsection (3) is added to section 429.69, Florida Statutes, to read:

429.69 Denial, revocation, and suspension of a license.—In addition to the requirements of part II of chapter 408, the agency may deny, suspend, and revoke a license for any of the following reasons:

*(3) Failure of the adult family-care home provider who owns or rents the home to live in the home.*

Section 23. Paragraph (b) of subsection (1) of section 429.73, Florida Statutes, is amended to read:

429.73 Rules and standards relating to adult family-care homes.—

(1) The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. The department, in consultation with the Department of Health, the Department of Children and Family Services, and the agency shall, by rule, establish minimum standards to ensure the health, safety, and well-being of each resident in the adult family-care home pursuant to this part. The rules must address:

(b) Services that must be provided to all residents of an adult family-care home and standards for such services, which must include, but need not be limited to:

1. Room and board.

2. Assistance necessary to perform the activities of daily living.

3. Assistance necessary to administer medication.

4. Supervision of residents.

5. Health monitoring*, including periodic assessments to determine if the resident is competent to handle his or her personal and financial affairs and, if not, whether a responsible person such as a guardian, surrogate, or attorney in fact is available to make decisions on behalf of the resident*.

6. Social and leisure activities.

Section 24. Effective April 1, 2009, subsections (2) and (3) of section 435.03, Florida Statutes, are amended to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been *convicted of* ~~found guilty of, regardless of adjudication~~, or entered a plea of *guilty or* nolo contendere ~~or guilty to~~, *regardless of adjudication, to* any offense prohibited under any of the following ~~provisions of the Florida~~ statutes or under any similar statute of another jurisdiction:

(a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section 415.111, relating to abuse, neglect, or exploitation of a vulnerable adult.

(d) Section 782.04, relating to murder.

(e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section 782.071, relating to vehicular homicide.

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

(h) Section 784.011, relating to assault, if the victim of the offense was a minor.

(i) Section 784.021, relating to aggravated assault.

(j) Section 784.03, relating to battery, if the victim of the offense was a minor.

(k) Section 784.045, relating to aggravated battery.

(l) Section 787.01, relating to kidnapping.

(m) Section 787.02, relating to false imprisonment.

(n) Section 794.011, relating to sexual battery.

(o) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(p) Chapter 796, relating to prostitution.

(q) Section 798.02, relating to lewd and lascivious behavior.

(r) Chapter 800, relating to lewdness and indecent exposure.

(s) Section 806.01, relating to arson.

(t) Chapter 812, relating to theft, robbery, and related crimes, if the offense was a felony.

(u) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(v) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(w) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(x) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(y) Section 826.04, relating to incest.

(z) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(aa) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(bb) Former s. 827.05, relating to negligent treatment of children.

(cc) Section 827.071, relating to sexual performance by a child.

(dd) Chapter 847, relating to obscene literature.

(ee) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(ff) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(3) Standards must also ensure that the person:

(a) *Has not been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, offenses prohibited under any of the following statutes or under any similar statute of another jurisdiction, if he or she is an employee or employer* ~~For employees and employers~~ licensed or registered pursuant to *chapter 393,* chapter 400*, part II of chapter 408,* or chapter 429*, or an employee or employer at a* ~~and for employees and employers of developmental disabilities institutions as defined in s. 393.063, intermediate care facilities for the developmentally disabled as defined in s. 400.960, and~~ mental health treatment *facility* ~~facilities~~ as defined in s. 394.455~~, meets the requirements of this chapter~~.

*1. Sections 409.920 and 409.9201, relating to Medicaid fraud.*

*2. Chapter 429, relating to assisted care communities.*

*3. Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.*

*4. Section 810.02, relating to burglary, if the offense is a felony.*

*5. Section 817.034, relating to communications fraud.*

*6. Section 817.234, relating to fraudulent insurance claims.*

*7. Section 817.505, relating to patient brokering.*

*8. Section 817.568, relating to identification theft.*

*9. Sections 817.60 and 817.61, relating to credit cards, if the offense is a felony.*

*10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and 831.31 relating to forgery, uttering, and counterfeiting.*

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.28.

Section 25. Effective April 1, 2009, subsections (2) and (4) of section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to ~~the provisions of~~ this section have been *convicted* ~~found guilty~~ of, ~~regardless of adjudication,~~ or entered a plea of *guilty or* nolo contendere ~~or guilty to~~, *regardless of adjudication, to* any offense prohibited under any of the following ~~provisions of the Florida~~ statutes or under any similar statute of another jurisdiction:

(a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(d) Section 782.04, relating to murder.

(e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section 782.071, relating to vehicular homicide.

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

(h) Section 784.011, relating to assault, if the victim of the offense was a minor.

(i) Section 784.021, relating to aggravated assault.

(j) Section 784.03, relating to battery, if the victim of the offense was a minor.

(k) Section 784.045, relating to aggravated battery.

(l) Section 784.075, relating to battery on a detention or commitment facility staff.

(m) Section 787.01, relating to kidnapping.

(n) Section 787.02, relating to false imprisonment.

(o) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(p) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(q) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(r) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(s) Section 794.011, relating to sexual battery.

(t) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(u) Chapter 796, relating to prostitution.

(v) Section 798.02, relating to lewd and lascivious behavior.

(w) Chapter 800, relating to lewdness and indecent exposure.

(x) Section 806.01, relating to arson.

(y) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(aa) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(bb) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(cc) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(dd) Section 826.04, relating to incest.

(ee) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(ff) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(gg) Former s. 827.05, relating to negligent treatment of children.

(hh) Section 827.071, relating to sexual performance by a child.

(ii) Section 843.01, relating to resisting arrest with violence.

(jj) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(kk) Section 843.12, relating to aiding in an escape.

(ll) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(mm) Chapter 847, relating to obscene literature.

(nn) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(oo) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(pp) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(qq) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(rr) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(ss) Section 944.47, relating to introduction of contraband into a correctional facility.

(tt) Section 985.701, relating to sexual misconduct in juvenile justice programs.

(uu) Section 985.711, relating to contraband introduced into detention facilities.

(4) Standards must also ensure that the person:

(a) *Has not been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, offenses prohibited under any of the following statutes or under any similar statute of another jurisdiction, if he or she is an employee or employer* ~~For employees or employers~~ licensed or registered pursuant to *chapter 393,* chapter 400*, part II of chapter 408,* or chapter 429, *or an employee or employer at a mental health treatment facility as defined in s. 394.455* ~~does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(6), which has been uncontested or upheld under s. 415.103~~.

*1. Sections 409.920 and 409.9201, relating to Medicaid fraud.*

*2. Chapter 429, relating to assisted care communities.*

*3. Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.*

*4. Section 810.02, relating to burglary, if the offense is a felony.*

*5. Section 817.034, relating to communications fraud.*

*6. Section 817.234, relating to fraudulent insurance claims.*

*7. Section 817.505, relating to patient brokering.*

*8. Section 817.568, relating to identification theft.*

*9. Sections 817.60 and 817.61, relating to credit cards, if the offense is a felony.*

*10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and 831.31 relating to forgery, uttering, and counterfeiting.*

(b) Has not committed an act that constitutes domestic violence as defined in *s. 741.28* ~~s. 741.30~~.

*(c) Does not have a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld under s. 415.103, if the person is an employee of a developmental disabilities institution as defined in s. 393.063.*

Section 26. *Subsection (13) of section 400.141, subsection (3) of section 408.809, subsection (2) of section 429.08, and subsection (5) of section 429.41, Florida Statutes, are repealed.*

Section 27. Paragraph (h) of subsection (3) of section 430.80, Florida Statutes, is amended to read:

430.80 Implementation of a teaching nursing home pilot project.—

(3) To be designated as a teaching nursing home, a nursing home licensee must, at a minimum:

(h) Maintain insurance coverage pursuant to *s. 400.141(19)* ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum amount of $750,000. ~~Such~~ Proof of financial responsibility may include:

1. Maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52; or

2. Obtaining and maintaining, pursuant to chapter 675, an unexpired, irrevocable, nontransferable and nonassignable letter of credit issued by *a* ~~any~~ bank or savings association organized and existing under the laws of this state or *a* ~~any~~ bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized to receive deposits in this state. The letter of credit shall be used to satisfy the obligation of the facility to the claimant upon presentment of a final judgment indicating liability and awarding damages to be paid by the facility or upon presentment of a settlement agreement signed by all parties *if the* ~~to the agreement when such~~ final judgment or settlement is a result of a liability claim against the facility.

Section 28. Subsection (13) of section 651.118, Florida Statutes, is amended to read:

651.118 Agency for Health Care Administration; certificates of need; sheltered beds; community beds.—

(13) Residents~~, as defined in this chapter,~~ are not considered new admissions for the purpose of *s. 400.141(14)(d)* ~~s. 400.141(15)(d)~~.

Section 29. *The sum of $241,274 is appropriated to the Agency for Health Care Administration from the Health Care Trust Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent positions along with an associated salary rate of 298,721 are authorized for the purpose of implementing the provisions of this act.*

Section 30. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2008.

And the title is amended as follows:

Delete line(s) 527-571 and insert: A bill to be entitled An act relating to adult protection and care; amending s. 322.142, F.S.; authorizing the Department of Children and Family Services to obtain copies of driver's license files maintained by the Department of Highway Safety and Motor Vehicles for the purpose of conducting protective investigations; amending s. 400.141, F.S.; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all nursing home residents; amending s. 400.19, F.S.; revising provisions relating to unannounced inspections; amending s. 400.215, F.S.; requiring contracted workers employed in a nursing home to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in a nursing home; providing certain exceptions; deleting an obsolete provision; amending s. 408.809, F.S.; requiring the agency to establish a fee schedule to cover the cost of a level 1 or level 2 screening and giving the agency rulemaking authority; amending s. 408.810, F.S.; requiring health care facilities regulated by the Agency for Health Care Administration to post certain information in the facility; requiring the agency to have the information available on its website; amending s. 408.811, F.S.; providing that agency employees who provide advance notice of unannounced agency inspections are subject to suspension; providing a timeline and process for correction of deficiencies; providing that the agency may provide electronic access to documents; amending s. 415.103, F.S.; requiring certain reports to the central abuse hotline relating to vulnerable adults to be immediately transferred to the county sheriff's office; amending s. 415.1051, F.S.; authorizing the Department of Children and Family Services to file the petition to determine incapacity in adult protection proceedings; prohibiting the department from serving as the guardian or providing legal counsel to the guardian; amending s. 415.112, F.S.; specifying rules to be adopted by the Department of Children and Family Services relating to adult protective services under ch. 415, F.S.; amending s. 429.07, F.S.; providing that license requirements for specialty licenses apply to current licensees as well as applicants for an extended congregate care and limited nursing license; conforming a cross-reference; amending s. 429.174, F.S.; requiring certain employees and contracted workers in assisted living facilities to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in an assisted living facility; providing certain exceptions; requiring the person being screened to pay for the cost of screening; amending s. 429.255, F.S.; providing that the owner or administrator of an assisted living facility is responsible for the services provided in the facility; amending s. 429.26, F.S.; clarifying a prohibition on moving a resident; providing for the development of a plan for services for all residents; requiring that the plan be updated and reviewed periodically; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all residents of an assisted living facility; requiring residents to be periodically assessed for competency to handle personal affairs; amending s. 429.27, F.S.; prohibiting assisted living facility personnel from making certain decisions for a resident or acting as the resident's representative or surrogate; amending s. 429.28, F.S.; revising and specifying certain conditions in an assisted living facility's resident bill of rights for a resident's relocation or termination of residency; creating s. 429.285, F.S.; prohibiting resident relocation or termination of residency in the absence of certain specified conditions; requiring the administrator or employee of a facility to sign a notice of relocation or termination of residency and requiring a physician's signature under certain circumstances; requiring a licensee to provide advance written notice to the resident and other specified persons regarding relocation or termination of residency; providing that the notice contain certain information; providing for the creation of a form to submit relocation or termination of residency information and specifying information to be included therein; requiring a licensee to report relocation or termination of residency to the Office of State Long-term Care Ombudsman within a certain timeframe; permitting residents to seek the assistance of the local long-term care ombudsmen council in reviewing a notice of relocation or termination of residency; providing for emergency relocation and termination of residency; permitting the local long-term care ombudsmen council to request private informal contact with a resident upon receipt of a notice of relocation or termination of residency; authorizing the agency to adopt rules; amending s. 429.294, F.S.; deleting a cross-reference; amending s. 429.34, F.S.; providing for unannounced inspections; providing for additional 6-month inspections for certain violations; providing for an additional fine for 6-month inspections; amending s. 429.65, F.S.; providing a definition of the term "reside"; amending s. 429.67, F.S.; expanding the list of persons who must have a background screening in adult family-care homes; amending s. 429.69, F.S.; providing that the failure of a adult family-care home provider to live in the home is grounds for the denial, revocation, or suspension of a license; amending s. 429.73, F.S.; requiring adult family-care home residents to be periodically assessed for competency to handle personal affairs; amending ss. 435.03 and 435.04, F.S.; providing additional criminal offenses for screening certain health care facility personnel; repealing s. 400.141(13), F.S., relating to a requirement to post certain information in nursing homes; repealing s. 408.809(3), F.S., relating to the granting of a provisional license while awaiting the results of a background screening; repealing s. 429.08(2), F.S., deleting a provision relating to local workgroups of field offices of the Agency for Health Care Administration; repealing s. 429.41(5), F.S., relating to agency inspections; amending ss. 430.80 and 651.118, F.S.; conforming cross-references; providing an appropriation and authorizing additional positions; providing effective dates.

Senator Hill moved the following substitute amendment which failed:

**Senate Amendment 2 (720682) (with title amendment) to House Amendment 1**—Delete line(s) 5-521 and insert:

Section 1. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record *are exempt from the provisions of s. 119.07(1) and* shall be made and issued only for departmental administrative purposes; for the issuance of duplicate licenses; in response to law enforcement agency requests; to the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters in accordance with ss. 98.045 and 98.075; to the Department of Revenue pursuant to an interagency agreement for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases; *to the Department of Children and Family Services pursuant to an interagency agreement to conduct protective investigations under chapter 415;* or to the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, and the identification of fraudulent or false claims~~, and are exempt from the provisions of s. 119.07(1)~~.

Section 2. Effective April 1, 2009, paragraph (g) is added to subsection (15) and subsection (25) is added to section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(15) Submit semiannually to the agency, or more frequently if requested by the agency, information regarding facility staff-to-resident ratios, staff turnover, and staff stability, including information regarding certified nursing assistants, licensed nurses, the director of nursing, and the facility administrator. For purposes of this reporting:

*(g) The agency shall impose sanctions against a nursing home for failure to meet the staffing ratios in s. 400.23(3) and for failure to impose a moratorium on new admissions pursuant to this section.*

Nothing in this section shall limit the agency's ability to impose a deficiency or take other actions if a facility does not have enough staff to meet the residents' needs.

*(25) Conduct a search of the Department of Law Enforcement's sexual offender database for each prospective resident before admission or immediately after admission. A facility must maintain verification that all residents have been screened. The information obtained may be used by the facility to assess the needs of the resident and to provide adequate and appropriate health care and protective and support services in accordance with this part. The information obtained may be disclosed to other residents. The facility does not have to rescreen a resident who is away from a facility for no more than 45 days.*

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

Section 3. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes~~,~~ and *related* ~~with~~ rules ~~promulgated under the provisions of those statutes,~~ governing minimum standards of construction, quality and adequacy of care, and rights of residents. The survey shall be conducted every 6 months for the next 2-year period if the facility has been cited for a class I deficiency, has been cited for two or more class II deficiencies arising from separate surveys or investigations within a 60-day period, or has had three or more substantiated complaints within a 6-month period, each resulting in at least one class I or class II deficiency. In addition to any other fees or fines in this part, the agency shall assess a fine for each facility that is subject to the 6-month survey cycle. The fine for the 2-year period shall be $6,000, one-half to be paid at the completion of each survey. The agency may adjust this fine by the change in the Consumer Price Index, based on the 12 months immediately preceding the *change* ~~increase~~, to cover the cost of the additional surveys. The agency shall verify through subsequent inspection that any deficiency identified during inspection is corrected. However, the agency may verify the correction of a class III or class IV deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. ~~The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 110.~~

Section 4. Effective April 1, 2009, section 400.215, Florida Statutes, is amended to read:

400.215 *Background* ~~Personnel~~ screening ~~requirement~~.—

(1) ~~The agency shall require~~ Background screening as provided in chapter 435 *is required* for all *nursing home facility* employees ~~or prospective employees of facilities licensed under this part~~ who are expected to, or whose responsibilities may require them to:

(a) Provide personal care or services to residents;

(b) Have access to resident living areas; or

(c) Have access to resident funds or other personal property.

*(2) Background screening as provided in chapter 435 is required for all nursing home facility contracted workers who are expected to, or whose responsibilities may require them to, provide personal care or services to residents. The facility shall maintain verification that such contracted workers have been screened pursuant to this section. The facility may either obtain a copy of the qualifying screening results from the entity or receive an affidavit from the entity which specifies that a background screen has been performed on all contracted workers sent to the facility. Contracted workers who do not provide personal care or services to residents are not required to be screened pursuant to this section but must sign in at the reception desk or nurses' station upon entering the facility, wear an identification badge while on the premises, and sign out before leaving the facility. The nursing facility shall maintain a log containing the information collected.*

*(3)*~~(2)~~ Employers, ~~and~~ employees*, contractors, and contracted workers* shall comply with the requirements of s. 435.05.

(a) Notwithstanding ~~the provisions of~~ s. 435.05(1), facilities must have in their possession evidence that level 1 screening *under s. 435.03* has been completed before allowing an employee *or contracted worker* to begin *employment in the facility* ~~working with patients~~ as provided in subsection (1). All information necessary for conducting *level 1* ~~background~~ screening ~~using level 1 standards as specified in s. 435.03~~ shall be submitted by the nursing facility to the agency. Results of the background screening shall be provided by the agency to the requesting nursing facility.

(b) Employees *and contracted workers* qualified under ~~the provisions of~~ paragraph (a) who have not maintained continuous residency within the state for the 5 years immediately preceding the date of request for background screening must complete level 2 screening, as provided in *s. 435.04* ~~chapter 435~~. ~~Such~~ Employees may work in a conditional status *for* up to 180 days pending the receipt of written findings evidencing the completion of level 2 screening. *Contracted workers who are awaiting the completion of level 2 screening may work only under the direct and visual supervision of persons who have met the screening requirements of this section.* Level 2 screening *is* ~~shall~~ not ~~be~~ required *for* ~~of~~ employees*,* ~~or~~ prospective employees*, or contracted workers* who attest in writing under penalty of perjury that they meet the residency requirement. *To complete* ~~Completion of~~ level 2 screening*:* ~~shall require~~

*1.* The employee or *contracted worker shall* ~~prospective employee to~~ furnish to the nursing facility a full set of fingerprints *for conducting a federal criminal records check* ~~to enable a criminal background investigation to be conducted~~.

*2.* The nursing facility shall submit the completed fingerprint card to the agency.

*3.* The agency shall establish a record of the request in the database provided for in paragraph (c) and forward the request to the Department of Law Enforcement, which is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history records check.

*4.* The results of the national criminal history records check shall be returned to the agency, which shall maintain the results in the database provided for in paragraph (c).

*5.* The agency shall notify the administrator of the requesting nursing facility or the administrator of any other *requesting* facility licensed under chapter 393, chapter 394, chapter 395, chapter 397, chapter 429, or this chapter~~, as requested by such facility,~~ as to whether ~~or not~~ the employee has qualified under level 1 or level 2 screening.

An employee or *contracted worker* ~~prospective employee~~ who has qualified under level 2 screening and has maintained ~~such~~ continuous residency within the state *is* ~~shall~~ not ~~be~~ required to complete a subsequent level 2 screening as a condition of employment at another facility.

(c) The agency shall establish and maintain a database *that includes* ~~of background screening information which shall include~~ the results of *all* ~~both~~ level 1 and level 2 screening. The Department of Law Enforcement shall timely provide to the agency, electronically, the results of each statewide screening for incorporation into the database. The agency shall, upon request from any facility, agency, or program required by or authorized by law to screen its employees or *contracted workers* ~~applicants~~, notify the administrator of the facility, agency, or program of the qualifying or disqualifying status of the *person* ~~employee or applicant~~ named in the request.

(d) ~~Applicants and~~ Employees*, prospective employees, and contracted workers* shall be excluded from employment pursuant to s. 435.06*, and may not be employed or resume employment until exempted or all appeals have been resolved in favor of the person screened. However, an employee of a nursing facility, employed prior to October 1, 1998, who is determined to have a disqualifying offense occurring after October 1, 1998, may continue employment pending the outcome of an exemption request if such request is made within 30 days of receipt of the results of the background screening. An employee of a nursing facility, employed before October 1, 1998, who is determined to have a disqualifying offense before October 1, 1998, but does not have a disqualifying offense after that date, is not required to submit an exemption request pursuant to s. 435.07 and may continue his or her employment.*

*Notwithstanding chapter 435, the agency may not provide to the employer the results of background screening for offenses occurring prior to October 1, 1998, for persons employed before October 1, 1998, except for an absolute disqualifying offense. For the purposes of this section, the term "absolute disqualifying offense" means a felony offense pursuant to s. 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035; s. 800.04, except for crimes identified in ss. 800.04(7)(c) and (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s. 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07, a person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to an absolute disqualifying offense may not be granted an exemption from disqualification from employment. Neither the agency nor an employer is required to rescreen or reevaluate qualifications for employment of a person who was screened by that employer and continuously employed before April 1, 2009.*

*(4)*~~(3)~~ The *person being screened* ~~applicant~~ is responsible for paying the fees associated with obtaining the required screening. Payment for the screening shall be submitted to the agency. The agency shall establish a schedule of fees to cover the costs of level 1 and level 2 screening. Facilities may *pay* ~~reimburse employees~~ for these costs. The Department of Law Enforcement shall charge the agency for a level 1 or level 2 screening a rate sufficient to cover the costs of ~~such~~ screening pursuant to s. 943.053(3). The agency shall, as allowable, reimburse nursing facilities for the cost of conducting background screening as required by this section. This reimbursement *is* ~~will~~ not ~~be~~ subject to any rate ceilings or payment targets in the Medicaid Reimbursement plan.

*(5)*~~(4)(a)~~ As provided in s. 435.07:~~,~~

*(a)* The agency may grant an exemption from disqualification to an employee*,* ~~or~~ prospective employee*, or contracted worker* who is subject to this section and who has not received a professional license or certification from the Department of Health.

(b) ~~As provided in s. 435.07,~~ The appropriate regulatory board within the Department of Health, or that department itself when there is no board, may grant an exemption from disqualification to an employee*,* ~~or~~ prospective employee*, or contracted worker* who is subject to this section and who has received a professional license or certification from the Department of Health or a regulatory board within that department.

*(6)*~~(5)~~ ~~Any provision of law to the contrary notwithstanding,~~ Persons who have been screened and qualified as required by this section*,* ~~and~~ who have not been unemployed for more than 180 days ~~thereafter~~, and who*,* under penalty of perjury*,* attest to not having been convicted of a disqualifying offense since the completion of such screening *are*~~, shall~~ not ~~be~~ required to be rescreened. An employer may obtain, pursuant to s. 435.10, written verification of qualifying screening results from the previous employer*, contractor,* or other entity *that* ~~which~~ caused *the* ~~such~~ screening to be performed.

*(7)*~~(6)~~ The agency and the Department of Health *may* ~~shall have authority to~~ adopt rules *to administer* ~~pursuant to the Administrative Procedure Act to implement~~ this section.

~~(7) All employees shall comply with the requirements of this section by October 1, 1998. No current employee of a nursing facility as of the effective date of this act shall be required to submit to rescreening if the nursing facility has in its possession written evidence that the person has been screened and qualified according to level 1 standards as specified in s. 435.03(1). Any current employee who meets the level 1 requirement but does not meet the 5-year residency requirement as specified in this section must provide to the employing nursing facility written attestation under penalty of perjury that the employee has not been convicted of a disqualifying offense in another state or jurisdiction. All applicants hired on or after October 1, 1998, shall comply with the requirements of this section.~~

(8) There is no monetary or unemployment liability on the part of, and *a* ~~no~~ cause of action for damages *does not arise* ~~arising~~ against*,* an employer that, upon notice of a disqualifying offense listed under chapter 435 or an act of domestic violence, terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the Department of Health or the agency ~~for Health Care Administration~~.

Section 5. Subsection (6) is added to section 408.809, Florida Statutes, to read:

408.809 Background screening; prohibited offenses.—

*(6) The agency shall establish a schedule of fees to cover the costs of any level 1 or level 2 screening required pursuant to this part or other authorizing statutes and may adopt rules to carry out these screenings and for the schedule of fees.*

Section 6. Subsection (5) of section 408.810, Florida Statutes, is amended to read:

408.810 Minimum licensure requirements.—In addition to the licensure requirements specified in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with the requirements of this section in order to obtain and maintain a license.

(5) *Each licensee must:*

(a) On or before the first day services are provided to a client, ~~a licensee must~~ inform the client and his or her immediate family or representative, if appropriate, of the right to report:

1. Complaints. The statewide toll-free telephone number for reporting complaints to the agency must be provided to clients in a manner that is clearly legible and must include the words: "To report a complaint regarding the services you receive, please call toll-free (phone number)."

2. Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provided to clients in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free (phone number)." The agency shall publish a minimum of a 90-day advance notice of a change in the toll-free telephone numbers.

(b) ~~Each licensee shall~~ Establish appropriate policies and procedures for providing such notice to clients.

*(c) Publicly display a poster approved by the agency containing the names, addresses, and telephone numbers for the state's central abuse hotline, the State Long-Term Care Ombudsman, the agency's consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, along with a clear description of the assistance to be expected from each. The Statewide Public Guardianship Office and its website shall also be listed. The agency shall make the poster available on the Internet. Providers may download the poster, at no charge, from the agency's website.*

Section 7. Section 408.811, Florida Statutes, is amended to read:

408.811 Right of inspection; copies; inspection reports.—

(1) An authorized officer or employee of the agency may make or cause to be made any inspection or investigation deemed necessary by the agency to determine the state of compliance with this part, authorizing statutes, and applicable rules. The right of inspection extends to any business that the agency has reason to believe is being operated as a provider without a license, but inspection of any business suspected of being operated without the appropriate license may not be made without the permission of the owner or person in charge unless a warrant is first obtained from a circuit court. Any application for a license issued under this part, authorizing statutes, or applicable rules constitutes permission for an appropriate inspection to verify the information submitted on or in connection with the application.

(a) All inspections shall be unannounced, except as specified in s. 408.806. *The giving or causing to be given of advance notice of the unannounced inspection by an agency employee to any unauthorized person shall, in accordance with chapter 110, constitute cause for suspension of the employee for at least 5 working days.*

(b) Inspections for relicensure shall be conducted biennially unless otherwise specified by authorizing statutes or applicable rules.

*(c) Deficiencies found during an inspection or investigation must be corrected within 30 days unless an alternative timeframe is required or approved by the agency.*

*(d) The agency may require an applicant or licensee to submit a plan of correction for deficiencies. If required, the plan of correction must be filed with the agency within 10 days unless an alternative timeframe is required.*

(2) Inspections conducted in conjunction with certification may be accepted in lieu of a complete licensure inspection. However, a licensure inspection may also be conducted to review any licensure requirements that are not also requirements for certification.

(3) The agency shall have access to and the licensee shall provide copies of all provider records required during an inspection at no cost to the agency.

(4)(a) Each licensee shall maintain as public information, available upon request, records of all inspection reports pertaining to that provider that have been filed by the agency unless those reports are exempt from or contain information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution or is otherwise made confidential by law. Effective October 1, 2006, copies of such reports shall be retained in the records of the provider for at least 3 years following the date the reports are filed and issued, regardless of a change of ownership.

(b) A licensee shall, upon the request of any person who has completed a written application with intent to be admitted by such provider, any person who is a client of such provider, or any relative, spouse, or guardian of any such person, furnish to the requester a copy of the last inspection report pertaining to the licensed provider that was issued by the agency or by an accrediting organization if such report is used in lieu of a licensure inspection.

*(c) As an alternative to sending reports required by this part or authorizing statutes, the agency may provide electronic access to information or documents.*

Section 8. Subsection (2) of section 415.103, Florida Statutes, is amended to read:

415.103 Central abuse hotline.—

(2) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of a vulnerable adult, the central abuse hotline *shall* ~~must~~ determine if the report requires an immediate onsite protective investigation.

*(a)* For reports requiring an immediate onsite protective investigation, the central abuse hotline must immediately notify the department's designated protective investigative district staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.

*(b)* For reports not requiring an immediate onsite protective investigation, the central abuse hotline must notify the department's designated protective investigative district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification ~~of district staff with respect to the report~~, the central abuse hotline must also provide any ~~known information on any~~ previous *reports* ~~report~~ concerning *the* ~~a~~ subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

*(c) If the report is of known or suspected abuse of a vulnerable adult by someone other than a relative, caregiver, or household member, the call shall be immediately transferred to the appropriate county sheriff's office.*

Section 9. Paragraph (e) of subsection (1) and paragraph (g) of subsection (2) of section 415.1051, Florida Statutes, are amended to read:

415.1051 Protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.—

(1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.—If the department has reasonable cause to believe that a vulnerable adult or a vulnerable adult in need of services is being abused, neglected, or exploited and is in need of protective services but lacks the capacity to consent to protective services, the department shall petition the court for an order authorizing the provision of protective services.

(e) Continued protective services.—

1. *Within* ~~No more than~~ 60 days after the date of the order authorizing the provision of protective services, the department shall petition the court to determine whether:

a. Protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult pursuant to this subsection;

b. Protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Protective services *are to* ~~will~~ be discontinued; or

d. A petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744.

2. If the court determines that a petition for guardianship *shall* ~~should~~ be filed pursuant to chapter 744, the court, for good cause shown, may order continued protective services until it makes a determination regarding capacity.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

(2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the department has reasonable cause to believe that a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury to the vulnerable adult and that the vulnerable adult lacks the capacity to consent to emergency protective services, the department may take action under this subsection. If the vulnerable adult has the capacity to consent and refuses consent to emergency protective services, emergency protective services may not be provided.

(g) Continued emergency protective services.—

1. *Within* ~~Not more than~~ 60 days after the date of the order authorizing the provision of emergency protective services, the department shall petition the court to determine whether:

a. Emergency protective services *are to* ~~will~~ be continued with the consent of the vulnerable adult;

b. Emergency protective services *are to* ~~will~~ be continued for the vulnerable adult who lacks capacity;

c. Emergency protective services *are to* ~~will~~ be discontinued; or

d. A petition *shall* ~~should~~ be filed under chapter 744.

2. If it is decided to file a petition under chapter 744, for good cause shown, the court may order continued emergency protective services until a determination is made by the court.

*3. If the department has a good faith belief that the vulnerable adult lacks capacity, the petition to determine incapacity under s. 744.3201 may be filed by the department. Once the petition is filed, the department may not be appointed guardian and may not provide legal counsel for the guardian.*

Section 10. Section 415.112, Florida Statutes, is amended to read:

415.112 Rules ~~for implementation of ss. 415.101-415.113~~.—The department shall *adopt* ~~promulgate~~ rules *to administer this chapter including, but not limited to:* ~~for the implementation of ss. 415.101-415.113.~~

*(1) Background screening of department employees and employee applicants which includes a criminal records check and drug testing of adult protective investigators and adult protective investigator supervisors.*

*(2) The reporting of adult abuse, neglect, exploitation, a vulnerable adult in need of services, false reporting, and adult protective investigations.*

*(3) Confidentiality and retention of department records, access to records, and record requests.*

*(4) Injunctions and other protective orders.*

*(5) The provision of emergency and nonemergency protective services intervention.*

*(6) Agreements with law enforcement and other state agencies.*

*(7) Legal and casework procedures, including, but not limited to, diligent search, petitions, emergency removals, capacity to consent, and adult protection teams.*

*(8) The legal and casework management of cases involving protective supervision, protective orders, judicial reviews, administrative reviews, case plans, and documentation requirements.*

Section 11. Paragraphs (b) and (c) of subsection (3) of section 429.07, Florida Statutes, are amended to read:

429.07 License required; fee.—

(3) In addition to the requirements of s. 408.806, each license granted by the agency must state the type of care for which the license is granted. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including *services performed by persons licensed under* ~~acts performed pursuant to~~ part I of chapter 464 ~~by persons licensed thereunder~~, and supportive services*, as* defined by rule*,* to persons who *would* otherwise ~~would~~ be disqualified from continued residence in a facility licensed under this part.

1. *To obtain an* ~~In order for~~ extended congregate care *license* ~~services to be provided in a facility licensed under this part~~, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of *the* ~~a~~ facility. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of *the* ~~such~~ request shall be made in accordance with part II of chapter 408. ~~Existing~~

*2.* Facilities *applying for, and facilities currently licensed* ~~qualifying~~ to provide*,* extended congregate care services must have ~~maintained~~ a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards *which result in requiring the facility* ~~resulting in a requirement~~ to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility *licensed* under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium pursuant to this part or part II of chapter 408 or initiation of injunctive proceedings.

*3.*~~2.~~ *A facility that is* ~~Facilities that are~~ licensed to provide extended congregate care services *must* ~~shall~~ maintain a written progress report on each person who receives ~~such~~ services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit *the facility* ~~such facilities~~ at least quarterly to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part, part II of chapter 408, and rules that relate to extended congregate care. One of these visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects *the* ~~such~~ facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. ~~Before such decision is made,~~ The agency *must first* ~~shall~~ consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

*4.*~~3.~~ Facilities that are licensed to provide extended congregate care services *must* ~~shall~~:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency~~, as necessary~~.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place ~~to the extent possible~~, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of per-

sonal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, ~~either~~ directly or through contract, the services of a person licensed pursuant to part I of chapter 464.

h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

*5.*~~4.~~ Facilities licensed to provide extended congregate care services are exempt from the criteria for continued residency ~~as~~ set forth in rules adopted under s. 429.41. Facilities so licensed *must* ~~shall~~ adopt their own requirements within guidelines for continued residency set forth by rule. However, such facilities may not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services *must* ~~shall~~ provide each resident with a written copy of facility policies governing admission and retention.

*6.*~~5.~~ The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.

*7.*~~6.~~ Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination ~~as provided in s. 429.26(4)~~ and the facility must develop a preliminary service plan for the individual *as provided in s. 429.26*.

*8.*~~7.~~ When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 429.28(1)(k).

*9.*~~8.~~ Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

~~9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:~~

~~a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.~~

~~b. The number and characteristics of residents receiving such services.~~

~~c. The types of services rendered that could not be provided through a standard license.~~

~~d. An analysis of deficiencies cited during licensure inspections.~~

~~e. The number of residents who required extended congregate care services at admission and the source of admission.~~

~~f. Recommendations for statutory or regulatory changes.~~

~~g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.~~

~~h. Such other information as the department considers appropriate.~~

(c) A limited nursing services license shall be issued to a facility that provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. *To obtain a* ~~In order for~~ limited nursing services *license* ~~to be provided in a facility licensed under this part~~, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II of chapter 408. ~~Existing~~

*2.* Facilities *applying for, and facilities currently licensed* ~~qualifying~~ to provide*,* limited nursing services *must* ~~shall~~ have ~~maintained~~ a standard license and may not have been subject to administrative sanctions that affect the health, safety, and welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

*3.*~~2.~~ Facilities that are licensed to provide limited nursing services shall maintain a written progress report on each person who receives ~~such~~ nursing services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit such facilities at least twice a year to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part, part II of chapter 408, and related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that inspects *the* ~~such~~ facility.

*4.*~~3.~~ A person who receives limited nursing services ~~under this part~~ must meet the admission criteria established by the agency for assisted living facilities. *If* ~~When~~ a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 429.28(1)(k), unless the facility is *also* licensed to provide extended congregate care services.

Section 12. Effective April 1, 2009, section 429.174, Florida Statutes, is amended to read:

429.174 Background screening; exemptions.—

*(1)* The owner or administrator of an assisted living facility must conduct level 1 ~~background~~ screening, as set forth in chapter 435, on all employees ~~hired on or after October 1, 1998,~~ who perform personal services *or who have access to resident living areas* ~~as defined in s. 429.02(16)~~. The agency may exempt an individual from ~~employment~~ disqualification as set forth in *s. 435.07* ~~chapter 435~~. *However, such person may not be employed or resume employment pending the granting of an exemption or until all appeals have been resolved in favor of the person screened. A person employed before October 1, 1998, who is determined to have a disqualifying offense occurring after October 1, 1998, may continue employment pending the outcome of an exemption request if such request is made within 30 days of receipt of the results of the background screening. A person employed before October 1, 1998, who is determined to have a disqualifying offense before October 1, 1998, but does not have a disqualifying offense after that date, is not required to submit an exemption request pursuant to s. 435.07 and may continue his or her employment. Employees* ~~Such persons~~ shall be considered as having met *the screening requirements* ~~this requirement~~ if:

*(a)*~~(1)~~ Proof of compliance with level 1 screening ~~requirements~~ obtained to meet ~~any~~ professional license requirements in this state is provided and accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

*(b)*~~(2)~~ The person required to be screened has been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service which exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old is provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided by the employer retaining documentation of the screening to the person screened.

*(c)*~~(3)~~ The person required to be screened is employed by a corporation or business entity or related corporation or business entity that owns, operates, or manages more than one facility or agency licensed under this chapter, and for whom a level 1 screening was conducted by

the corporation or business entity as a condition of initial or continued employment.

*Notwithstanding chapter 435, the agency may not provide to the employer the results of background screening for offenses occurring prior to October 1, 1998, for persons employed before October 1, 1998, except for an absolute disqualifying offense. For the purposes of this section, the term "absolute disqualifying offense" means a felony offense pursuant to s. 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035; s. 800.04, except for crimes identified in ss. 800.04(7)(c) and (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s. 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07, a person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to an absolute disqualifying offense may not be granted an exemption from disqualification from employment. The agency or an employer is not required to rescreen or reevaluate qualifications for employment of a person who was screened by that employer and continuously employed before April 1, 2009.*

*(2) Level 1 screening as provided in chapter 435 is required for all contracted workers who are expected to, or whose responsibilities may require them to, provide personal services to residents. The facility shall maintain verification that such contracted workers have been screened pursuant to this section. The facility may either obtain a copy of the qualifying screening results from the entity or receive an affidavit from the entity which specifies that a background screen has been performed on all contracted workers sent to the facility. A contracted worker who does not provide personal services to residents is not required to be screened pursuant to this section but must sign in at the reception desk upon entering the facility, wear an identification badge while on the premises, and sign out before leaving the facility. The facility shall maintain a log containing the information collected.*

*(3) The person being screened is responsible for paying the fees associated with obtaining the required screening. Payment for the screening shall be submitted to the agency. The agency shall establish a schedule of fees to cover the costs of level 1 and level 2 screening. Facilities may reimburse employees or contracted workers for these costs. The Department of Law Enforcement shall charge the agency for a level 1 or level 2 screening a rate sufficient to cover the costs of screening pursuant to s. 943.053(3).*

Section 13. Subsection (1) of section 429.255, Florida Statutes, is amended to read:

429.255 Use of personnel; emergency care.—

(1)(a) *Facility staff, including* persons under contract to the facility, facility *employees* ~~staff~~, or volunteers, who are licensed according to part I of chapter 464, or those persons exempt under s. 464.022(1), and others as defined by rule, may administer medications to residents, take residents' vital signs, manage individual weekly pill organizers for residents who self-administer medication, give prepackaged enemas ordered by a physician, observe residents, document observations on the appropriate resident's record, report observations to the resident's physician, and contract or allow residents or a resident's representative, designee, surrogate, guardian, or attorney in fact to contract with a third party, provided residents meet the criteria for appropriate placement as defined in s. 429.26. Nursing assistants certified pursuant to part II of chapter 464 may take residents' vital signs as directed by a licensed nurse or physician.

(b) *Facility* ~~All~~ staff*, including persons under contract to the facility and facility employees* ~~in facilities licensed under this part~~ shall exercise their professional responsibility to observe residents, to document observations on the appropriate resident's record, ~~and~~ to report the observations to the resident's physician*, and to provide needed services competently*. However, the owner or administrator of the facility *is* ~~shall be~~ responsible for determining that the resident receiving services is appropriate for residence in the facility *and for the provision of and quality of care and services provided to the resident*.

(c) In an emergency situation, licensed personnel may carry out their professional duties pursuant to part I of chapter 464 until emergency medical personnel assume responsibility for care.

Section 14. Present subsections (8) through (12) of section 429.26, Florida Statutes, are renumbered as sections (6) through (10), respectively, and present subsections (1) through (7) of that section, are amended to read:

429.26 Appropriateness of placements; examinations of residents.—

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility. A determination shall be based upon an assessment of the strengths, needs, and preferences of the resident, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. *Except as provided in s. 429.28(1)(k),* a resident may not be moved from one facility to another without consultation with and agreement from the resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. *If* ~~In the case of~~ a resident ~~who~~ has been placed by the department or the Department of Children and Family Services, the administrator must notify the appropriate contact person in the applicable department.

~~(2) A physician, physician assistant, or nurse practitioner who is employed by an assisted living facility to provide an initial examination for admission purposes may not have financial interest in the facility.~~

~~(3) Persons licensed under part I of chapter 464 who are employed by or under contract with a facility shall, on a routine basis or at least monthly, perform a nursing assessment of the residents for whom they are providing nursing services ordered by a physician, except administration of medication, and shall document such assessment, including any substantial changes in a resident's status which may necessitate relocation to a nursing home, hospital, or specialized health care facility. Such records shall be maintained in the facility for inspection by the agency and shall be forwarded to the resident's case manager, if applicable.~~

*(2)*~~(4)~~ If possible, each resident shall have been examined by a licensed physician, a licensed physician assistant, or a licensed nurse practitioner within 60 days before admission to the facility. *The person conducting an examination under this subsection may not have financial interest in the facility.* The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall use the information contained *in the report* ~~therein~~ to assist in *determining* ~~the determination of~~ the appropriateness of the resident's admission and continued stay in the facility *and to develop a plan for the provision of services for the resident. The plan must be reviewed and updated annually; however, for a resident receiving nursing services ordered by a physician, except administration of medication, the plan must be reviewed and updated quarterly and whenever a resident experiences a significant change in condition.* The medical examination report *and plan for services* shall *be reported on a single form provided by the agency or a community supported-living plan for mental health residents. The plan shall* become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection or upon request. An assessment that has been completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills the requirements for a medical examination under this subsection ~~and s. 429.07(3)(b)6~~.

*(a)*~~(5)~~ Except as provided in s. 429.07, if a medical examination has not been completed within 60 days before the admission of the resident to the facility, *medical personnel* ~~a licensed physician, licensed physician assistant, or licensed nurse practitioner~~ shall examine the resident and complete a medical examination form provided by the agency within 30 days following ~~the~~ admission to the facility ~~to enable the facility owner or administrator to determine the appropriateness of the admission. The medical examination form shall become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection by the agency or upon request.~~

*(b)*~~(6)~~ Any resident accepted in a facility and placed by the department or the Department of Children and Family Services *must be* ~~shall have been~~ examined by medical personnel within 30 days before placement in the facility *and recorded on a medical examination form provided by the agency*. The examination shall include an assessment of the appropriateness of placement in a facility. ~~The findings of this examination shall be recorded on the examination form provided by the agency.~~

~~The completed form shall accompany the resident and shall be submitted to the facility owner or administrator.~~ *For* ~~Additionally, in the case of~~ a mental health resident, the Department of Children and Family Services must provide documentation that the individual has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be in the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident providing it was completed within 90 days prior to admission to the facility. The applicable department shall provide to the facility administrator any information about the resident that would help the administrator meet his or her responsibilities under *this section* ~~subsection (1)~~. Further, department personnel shall explain to the facility operator any special needs of the resident and advise the operator whom to call should problems arise. The applicable department shall advise and assist the facility administrator where the special needs of residents who are recipients of optional state supplementation require such assistance.

*(3) Effective April 1, 2009, a search of the Department of Law Enforcement's sexual offender database for each prospective resident must be conducted by the facility before admission or immediately after admission. The facility must maintain verification that all residents have been screened. The information obtained may be used by the facility to assess the needs of the resident and the care and services offered or arranged by the facility in accordance with this section. The information obtained may be disclosed to other residents. The facility does not have to rescreen a resident who is away from a facility for not more than 45 days.*

*(4) Persons licensed under part I of chapter 464 who are employed by or under contract with a facility shall, at least monthly, perform a nursing assessment of residents for whom they are providing nursing services ordered by a physician, except administration of medication, and shall document such assessment, including any substantial change in a resident's status which may necessitate relocation to a nursing home, hospital, or specialized health care facility. The records must be maintained in the facility for inspection by the agency and shall be forwarded to the resident's case manager, if applicable.*

*(5)*~~(7)~~ *Residents shall be periodically assessed to determine if the resident is capable of handling his or her personal and financial affairs and, if not, whether a responsible person such as a resident representative or designee, guardian, surrogate, or attorney in fact is available to make decisions on behalf of the resident. If a resident is having difficulty handling his or her personal or financial affairs because of a decline in health or cognitive abilities, the owner or administrator shall contact the resident's representative or designee, guardian, surrogate, or attorney in fact. If a resident does not have family or a legal representative to make decisions on his or her behalf, the owner or administrator must contact the Florida Abuse Hotline.* The facility must notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgment of such signs by facility staff. If an underlying condition is determined to exist, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

Section 15. Subsections (3) through (8) of section 429.27, Florida Statutes, are renumbered as subsections (6) through (11), respectively, and subsections (1) and (2) of that section, are amended to read:

429.27 Property and personal affairs of residents.—

(1)~~(a)~~ A resident shall be given the option of using his or her own belongings, as space permits; choosing his or her roommate; and, whenever possible, unless the resident is adjudicated incompetent or incapacitated under state law, managing his or her own affairs.

*(2)*~~(b)~~ The admission of a resident to a facility *does* ~~and his or her presence therein shall~~ not confer on the facility or its owner, administrator, *staff* ~~employees~~, or representatives any authority to manage, use, or dispose of any property of the resident *or to make financial or health care decisions on behalf of the resident*~~; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident~~, except *if* ~~that which may be~~ necessary for the safe management of the facility or for the safety of the resident.

*(3)*~~(2)~~ A facility, or an owner, administrator, *staff* ~~employee~~, or representative thereof, may not act as the *resident's representative or designee,* guardian, *health care surrogate,* trustee, or conservator for *a* ~~any~~ resident ~~of the assisted living facility~~ or any of *the* ~~such~~ resident's property *unless the person is a relative of the resident*.

*(4) A facility* ~~An~~ owner, administrator, or staff member, or representative thereof, may not act as a competent resident's payee for social security, veteran's, or railroad benefits without the consent of the resident. Any facility ~~whose~~ owner, administrator, or staff, or representative thereof *who*~~,~~ serves as representative payee for *a* ~~any~~ resident *must* ~~of the facility shall~~ file a surety bond with the agency in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for *his or her* ~~their~~ account, which are received by a facility.

*(5)* Any facility ~~whose~~ owner, administrator, or staff, or ~~a~~ representative thereof *who*~~,~~ is granted power of attorney for *a* ~~any~~ resident *must* ~~of the facility shall~~ file a surety bond with the agency for each resident for whom such power of attorney is granted. The surety bond *must* ~~shall~~ be in an amount equal to twice the average monthly income of the resident, plus the value of any resident's property under the control of the attorney in fact. The bond *must* ~~shall~~ be executed by the facility as principal and a licensed surety company. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the agency for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation ~~by a facility~~ of funds held pursuant to this subsection. Any surety company that cancels or does not renew the bond of any licensee shall notify the agency in writing not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. Any facility owner, administrator, or staff, or representative thereof, who is granted power of attorney for *a* ~~any~~ resident ~~of the facility~~ shall, on a monthly basis, ~~be required to~~ provide the resident *with* a written statement of any transaction made on behalf of the resident pursuant to this subsection, and a copy of such statement ~~given to the resident~~ shall be retained in each resident's file and available for agency inspection.

Section 16. Paragraphs (k) and (l) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 429.28, Florida Statutes, are amended to read:

429.28 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to:

(k) *Receive* at least 45 days' *written* notice of relocation or termination of residency from the *licensee as provided in s. 429.285, unless the relocation or termination of residency is initiated by the resident or the resident designee;* ~~facility unless,~~ for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care*;* or the resident engages in a pattern of conduct that is harmful or offensive to other residents. ~~In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for relocation shall be set forth in writing.~~ In order for a *licensee* ~~facility~~ to terminate the residency of an individual without notice as provided *in this paragraph* ~~herein~~, the *licensee* ~~facility~~ shall show good cause in a court of competent jurisdiction. *Admission to a facility licensed under this part may not be conditioned upon a waiver of such right, and any document or provision in a document that purports to waive or preclude such right is void and unenforceable.*

(l) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. Each *licensee* ~~facility~~ shall establish a *written* grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. *Each licensee shall maintain a written log of grievances*

*that shall be available for inspection and shall be maintained for at least 2 years. Residents may provide verbal or written grievances.*

(2) The administrator of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. This notice shall include the name, address, and telephone numbers of the local ombudsman council and central abuse hotline and, when applicable, the Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council, where complaints may be lodged. The *licensee* ~~facility~~ must ensure a resident's access to a telephone to call the local ombudsman council, central abuse hotline, Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council.

(3)

(b) In order to determine whether the *licensee* ~~facility~~ is adequately protecting residents' rights, the biennial survey shall include private informal conversations with a sample of residents and consultation with the ombudsman council in the planning and service area in which the facility is located to discuss residents' experiences within the facility.

Section 17. Section 429.285, Florida Statutes, is created to read:

*429.285 Resident relocation or termination of residency; requirements and procedures.—*

*(1) A facility licensed under this part must permit a resident to remain in the facility. Relocation or termination of residency of a resident may not occur unless:*

*(a) The relocation or termination of residency is necessary for the resident's welfare and the resident's needs cannot be met in the facility;*

*(b) The relocation or termination of residency is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility;*

*(c) The health and safety of other residents or facility employees would be endangered;*

*(d) The resident has failed, after at least 30 days' notice, to provide payment for his or her stay in the facility;*

*(e) The facility ceases to operate;*

*(f) There is a documented pattern of harmful and offensive behavior by the resident; or*

*(g) The contract provided for under s. 429.24(1) between the licensee and the resident expires on its own terms.*

*(2) When a relocation or termination of residency is initiated by the licensee, the administrator that is relocating the resident or terminating residency, or an individual employed by the facility who is designated by the administrator to act on behalf of the administration, must sign the notice of relocation or termination of residency. Any notice indicating a medical reason for relocation or termination of residency must be signed by the resident's physician or include an attached physician's written order for the relocation or termination of residency.*

*(3) At least 45 days prior to a proposed relocation or termination of residency, a licensee must provide by certified mail advance written notice of the proposed relocation or termination of residency to the resident and, if known, to a family member or the resident's legal guardian or representative.*

*(4) The notice must be in writing and contain all information required by state and federal laws, rules, and regulations. A copy of the notice must be placed in the resident's file. The agency shall develop a standard form to be used by all facilities licensed under this part for purposes of notifying residents of a relocation or termination of residency. In addition to any other pertinent information included, the form shall:*

*(a) Specify the reason allowed under state law justifying the relocation or termination of the residency, with an explanation to support this action.*

*(b) State the effective date of the relocation or termination of residency and the location to which the resident is being relocated.*

*(c) Include the right and means to request the local long-term care ombudsman council to review the notice of relocation or termination of residency.*

*(5) A relocation or termination of residency notice initiated by a licensee must be reported to the Office of State Long-Term Care Ombudsman by mail, electronic mail, or facsimile within 5 business days after a resident's receipt of a notice to relocate or terminate residency. The Office of State Long-Term Care Ombudsman shall compile and publish the information collected from such notices in the annual report required by s. 400.0065(2)(i). A resident may request that the local long-term care ombudsman council review any notice of relocation or termination of residency given to the resident. When requested by a resident to review such notice, the local long-term care ombudsman council shall do so within 5 business days after receipt of the request.*

*(6) In the event of an emergency relocation or termination of residency, as provided under s. 429.28(1)(k), notice shall be provided to the resident, the resident's legal guardian or representative, and the local long-term care ombudsman council by telephone or in person. The written notice shall be given before the relocation or termination of residency, if possible, and no later than 5 business days after the relocation or termination of residency. A local long-term care ombudsman council conducting a review under this section shall do so within 2 business days after receipt of the request. The resident's file must include documentation indicating who was contacted, whether the contact was by telephone or in person, and the date and time of the contact.*

*(7) After receipt of a notice required under this section, the local long-term care ombudsman council may request a private informal conversation with a resident to whom the notice is directed, and, if known, a family member or the resident's legal guardian or representative, to ensure that the licensee is proceeding with the relocation or termination of residency in accordance with the requirements of this section.*

*(8) The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.*

Section 18. Subsection (1) of section 429.294, Florida Statutes, is amended to read:

429.294 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(1) Failure to provide complete copies of a resident's records, including, but not limited to, all medical records and the resident's chart, within the control or possession of the facility within 10 days~~, in accordance with the provisions of s. 400.145,~~ shall constitute evidence of failure of that party to comply with good faith discovery requirements and shall waive the good faith certificate and presuit notice requirements under this part by the requesting party.

Section 19. Section 429.34, Florida Statutes, is amended to read:

429.34 Right of entry and inspection.—In addition to the requirements of s. 408.811:~~,~~

*(1)* Any duly designated officer or employee of the department, the Department of Children and Family Services, the Medicaid Fraud Control Unit of the Office of the Attorney General, the state or local fire marshal, or a member of the state or local long-term care ombudsman council shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part, part II of chapter 408, and applicable rules. Data collected by the state or local long-term care ombudsman councils or the state or local advocacy councils may be used by the agency in investigations involving violations of regulatory standards.

*(2) Every 24 months the agency shall conduct at least one unannounced inspection to determine compliance with this chapter and related rules, including minimum standards of quality and adequacy of care and the rights of residents. Two additional surveys shall be conducted every 6 months for the next year if the facility has been cited for a class I deficiency or two or more class II deficiencies arising from separate surveys or investigations within a 60-day period. In addition to*

*any fines imposed on a facility under s. 429.19, the agency shall assess a fine of $69 per bed for each of the additional two surveys, not to exceed $12,000 each. The agency shall adjust this fine by the change in the Consumer Price Index, based on the 12 months immediately preceding the change, to cover the cost of the additional two surveys. The agency shall verify through subsequent inspections that any deficiency identified during an inspection is corrected. However, the agency may verify the correction of a class III or class IV deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility which provides assurance that the deficiency has been corrected.*

Section 20. Present subsection (14) of section 429.65, Florida Statutes, is renumbered as subsection (15), and a new subsection (14) is added to that section, to read:

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

*(14) "Reside" means the licensee or applicant lives in the adult family care home as a primary residence. For purposes of this part, any two of the following documents that include the adult family care home address and the name of the licensee or applicant may be accepted by the agency as proof that the licensee or applicant resides in the adult family care home:*

*(a) Homestead exemption documentation;*

*(b) Lease or rental agreement accompanied by a corresponding utility bill; or*

*(c) Personal identification issued by a state or federal agency.*

Section 21. Subsection (4) of section 429.67, Florida Statutes, is amended to read:

429.67 Licensure.—

(4) Upon receipt of a completed license application or license renewal, and the fee, the agency shall initiate a level 1 background screening as provided under chapter 435 on the adult family-care home provider, the designated relief person, all adult household members, ~~and~~ all staff members*, and any other person who provides personal services to residents or who have routine access to the adult family-care home*.

(a) Proof of compliance with level 1 screening standards which has been submitted within the previous 5 years to meet any facility or professional licensure requirements of the agency or the Department of Health satisfies the requirements of this subsection. Such proof must be accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

(b) The person required to be screened must have been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service that exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old must be provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided to the person screened by the employer retaining documentation of the screening.

Section 22. Subsection (3) is added to section 429.69, Florida Statutes, to read:

429.69 Denial, revocation, and suspension of a license.—In addition to the requirements of part II of chapter 408, the agency may deny, suspend, and revoke a license for any of the following reasons:

*(3) Failure of the adult family-care home provider who owns or rents the home to live in the home.*

Section 23. Paragraph (b) of subsection (1) of section 429.73, Florida Statutes, is amended to read:

429.73 Rules and standards relating to adult family-care homes.—

(1) The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. The department, in consultation with the Department of Health, the Department of Children and Family Services, and the agency shall, by rule, establish minimum standards to ensure the health, safety, and well-being of each resident in the adult family-care home pursuant to this part. The rules must address:

(b) Services that must be provided to all residents of an adult family-care home and standards for such services, which must include, but need not be limited to:

1. Room and board.

2. Assistance necessary to perform the activities of daily living.

3. Assistance necessary to administer medication.

4. Supervision of residents.

5. Health monitoring*, including periodic assessments to determine if the resident is competent to handle his or her personal and financial affairs and, if not, whether a responsible person such as a guardian, surrogate, or attorney in fact is available to make decisions on behalf of the resident*.

6. Social and leisure activities.

Section 24. Effective April 1, 2009, subsections (2) and (3) of section 435.03, Florida Statutes, are amended to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been *convicted of* ~~found guilty of, regardless of adjudication~~, or entered a plea of *guilty or* nolo contendere ~~or guilty to~~*, regardless of adjudication, to* any offense prohibited under any of the following ~~provisions of the Florida~~ statutes or under any similar statute of another jurisdiction:

(a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section 415.111, relating to abuse, neglect, or exploitation of a vulnerable adult.

(d) Section 782.04, relating to murder.

(e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section 782.071, relating to vehicular homicide.

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

(h) Section 784.011, relating to assault, if the victim of the offense was a minor.

(i) Section 784.021, relating to aggravated assault.

(j) Section 784.03, relating to battery, if the victim of the offense was a minor.

(k) Section 784.045, relating to aggravated battery.

(l) Section 787.01, relating to kidnapping.

(m) Section 787.02, relating to false imprisonment.

(n) Section 794.011, relating to sexual battery.

(o) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(p) Chapter 796, relating to prostitution.

(q) Section 798.02, relating to lewd and lascivious behavior.

(r) Chapter 800, relating to lewdness and indecent exposure.

(s) Section 806.01, relating to arson.

(t) Chapter 812, relating to theft, robbery, and related crimes, if the offense was a felony.

(u) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(v) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(w) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(x) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(y) Section 826.04, relating to incest.

(z) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(aa) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(bb) Former s. 827.05, relating to negligent treatment of children.

(cc) Section 827.071, relating to sexual performance by a child.

(dd) Chapter 847, relating to obscene literature.

(ee) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(ff) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(3) Standards must also ensure that the person:

(a) *Has not been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, offenses prohibited under any of the following statutes or under any similar statute of another jurisdiction, if he or she is an employee or employer* ~~For employees and employers~~ licensed or registered pursuant to *chapter 393,* chapter 400*, part II of chapter 408,* or chapter 429*, or an employee or employer at a* ~~and for employees and employers of developmental disabilities institutions as defined in s. 393.063, intermediate care facilities for the developmentally disabled as defined in s. 400.960, and~~ mental health treatment *facility* ~~facilities~~ as defined in s. 394.455~~, meets the requirements of this chapter~~.

*1. Sections 409.920 and 409.9201, relating to Medicaid fraud.*

*2. Chapter 429, relating to assisted care communities.*

*3. Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.*

*4. Section 810.02, relating to burglary, if the offense is a felony.*

*5. Section 817.034, relating to communications fraud.*

*6. Section 817.234, relating to fraudulent insurance claims.*

*7. Section 817.505, relating to patient brokering.*

*8. Section 817.568, relating to identification theft.*

*9. Sections 817.60 and 817.61, relating to credit cards, if the offense is a felony.*

*10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and 831.31 relating to forgery, uttering, and counterfeiting.*

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.28.

Section 25. Effective April 1, 2009, subsections (2) and (4) of section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to ~~the provisions of~~ this section have been *convicted* ~~found guilty~~ of, ~~regardless of adjudication,~~ or entered a plea of *guilty or* nolo contendere ~~or guilty to~~*, regardless of adjudication, to* any offense prohibited under any of the following ~~provisions of the Florida~~ statutes or under any similar statute of another jurisdiction:

(a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(d) Section 782.04, relating to murder.

(e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section 782.071, relating to vehicular homicide.

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

(h) Section 784.011, relating to assault, if the victim of the offense was a minor.

(i) Section 784.021, relating to aggravated assault.

(j) Section 784.03, relating to battery, if the victim of the offense was a minor.

(k) Section 784.045, relating to aggravated battery.

(l) Section 784.075, relating to battery on a detention or commitment facility staff.

(m) Section 787.01, relating to kidnapping.

(n) Section 787.02, relating to false imprisonment.

(o) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(p) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(q) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(r) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(s) Section 794.011, relating to sexual battery.

(t) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(u) Chapter 796, relating to prostitution.

(v) Section 798.02, relating to lewd and lascivious behavior.

(w) Chapter 800, relating to lewdness and indecent exposure.

(x) Section 806.01, relating to arson.

(y) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(aa) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(bb) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(cc) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(dd) Section 826.04, relating to incest.

(ee) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(ff) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(gg) Former s. 827.05, relating to negligent treatment of children.

(hh) Section 827.071, relating to sexual performance by a child.

(ii) Section 843.01, relating to resisting arrest with violence.

(jj) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(kk) Section 843.12, relating to aiding in an escape.

(ll) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(mm) Chapter 847, relating to obscene literature.

(nn) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(oo) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(pp) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(qq) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(rr) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(ss) Section 944.47, relating to introduction of contraband into a correctional facility.

(tt) Section 985.701, relating to sexual misconduct in juvenile justice programs.

(uu) Section 985.711, relating to contraband introduced into detention facilities.

(4) Standards must also ensure that the person:

(a) *Has not been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, offenses prohibited under any of the following statutes or under any similar statute of another jurisdiction, if he or she is an employee or employer* ~~For employees or employers~~ licensed or registered pursuant to *chapter 393,* chapter 400*, part II of chapter 408,* or chapter 429*, or an employee or employer at a mental health treatment facility as defined in s. 394.455* ~~does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(6), which has been uncontested or upheld under s. 415.103~~.

*1. Sections 409.920 and 409.9201, relating to Medicaid fraud.*

*2. Chapter 429, relating to assisted care communities.*

*3. Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.*

*4. Section 810.02, relating to burglary, if the offense is a felony.*

*5. Section 817.034, relating to communications fraud.*

*6. Section 817.234, relating to fraudulent insurance claims.*

*7. Section 817.505, relating to patient brokering.*

*8. Section 817.568, relating to identification theft.*

*9. Sections 817.60 and 817.61, relating to credit cards, if the offense is a felony.*

*10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and 831.31 relating to forgery, uttering, and counterfeiting.*

(b) Has not committed an act that constitutes domestic violence as defined in *s. 741.28* ~~s. 741.30~~.

*(c) Does not have a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld under s. 415.103, if the person is an employee of a developmental disabilities institution as defined in s. 393.063.*

Section 26. *Subsection (13) of section 400.141, subsection (3) of section 408.809, subsection (2) of section 429.08, and subsection (5) of section 429.41, Florida Statutes, are repealed.*

Section 27. Paragraph (h) of subsection (3) of section 430.80, Florida Statutes, is amended to read:

430.80 Implementation of a teaching nursing home pilot project.—

(3) To be designated as a teaching nursing home, a nursing home licensee must, at a minimum:

(h) Maintain insurance coverage pursuant to *s. 400.141(19)* ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum amount of $750,000. ~~Such~~ Proof of financial responsibility may include:

1. Maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52; or

2. Obtaining and maintaining*,* pursuant to chapter 675*,* an unexpired, irrevocable, nontransferable and nonassignable letter of credit issued by *a* ~~any~~ bank or savings association organized and existing under the laws of this state or *a* ~~any~~ bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized to receive deposits in this state. The letter of credit shall be used to satisfy the obligation of the facility to the claimant upon presentment of a final judgment indicating liability and awarding damages to be paid by the facility or upon presentment of a settlement agreement signed by all parties *if the* ~~to the agreement when such~~ final judgment or settlement is a result of a liability claim against the facility.

Section 28. Subsection (13) of section 651.118, Florida Statutes, is amended to read:

651.118 Agency for Health Care Administration; certificates of need; sheltered beds; community beds.—

(13) Residents~~, as defined in this chapter,~~ are not considered new admissions for the purpose of *s. 400.141(14)(d)* ~~s. 400.141(15)(d)~~.

Section 29. *The sum of $241,274 is appropriated to the Agency for Health Care Administration from the Health Care Trust Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent positions along with an associated salary rate of 298,721 are authorized for the purpose of implementing the provisions of this act.*

Section 30. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2008.

And the title is amended as follows:

Delete line(s) 527-571 and insert: An act relating to adult protection and care; amending s. 322.142, F.S.; authorizing the Department of Children and Family Services to obtain copies of driver's license files maintained by the Department of Highway Safety and Motor Vehicles for the purpose of conducting protective investigations; amending s. 400.141, F.S.; requiring the agency to impose sanctions against a nursing home for failure to meet certain requirements and for failure to

impose a moratorium on new admissions; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all nursing home residents; amending s. 400.19, F.S.; revising provisions relating to unannounced inspections; amending s. 400.215, F.S.; requiring contracted workers employed in a nursing home to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in a nursing home; providing certain exceptions; deleting an obsolete provision; amending s. 408.809, F.S.; requiring the agency to establish a fee schedule to cover the cost of a level 1 or level 2 screening and giving the agency rulemaking authority; amending s. 408.810, F.S.; requiring health care facilities regulated by the Agency for Health Care Administration to post certain information in the facility; requiring the agency to have the information available on its website; amending s. 408.811, F.S.; providing that agency employees who provide advance notice of unannounced agency inspections are subject to suspension; providing a timeline and process for correction of deficiencies; providing that the agency may provide electronic access to documents; amending s. 415.103, F.S.; requiring certain reports to the central abuse hotline relating to vulnerable adults to be immediately transferred to the county sheriff's office; amending s. 415.1051, F.S.; authorizing the Department of Children and Family Services to file the petition to determine incapacity in adult protection proceedings; prohibiting the department from serving as the guardian or providing legal counsel to the guardian; amending s. 415.112, F.S.; specifying rules to be adopted by the Department of Children and Family Services relating to adult protective services under ch. 415, F.S.; amending s. 429.07, F.S.; providing that license requirements for specialty licenses apply to current licensees as well as applicants for an extended congregate care and limited nursing license; conforming a cross-reference; amending s. 429.174, F.S.; requiring certain employees and contracted workers in assisted living facilities to submit to background screening; prohibiting employees and contracted workers who do not meet background screening requirements from being employed in an assisted living facility; providing certain exceptions; requiring the person being screened to pay for the cost of screening; amending s. 429.255, F.S.; providing that the owner or administrator of an assisted living facility is responsible for the services provided in the facility; amending s. 429.26, F.S.; clarifying a prohibition on moving a resident; providing for the development of a plan for services for all residents; requiring that the plan be updated and reviewed periodically; requiring a search of the Department of Law Enforcement's sexual offender database to be conducted on all residents of an assisted living facility; requiring residents to be periodically assessed for competency to handle personal affairs; amending s. 429.27, F.S.; prohibiting assisted living facility personnel from making certain decisions for a resident or acting as the resident's representative or surrogate; amending s. 429.28, F.S.; revising and specifying certain conditions in an assisted living facility's resident bill of rights for a resident's relocation or termination of residency; creating s. 429.285, F.S.; prohibiting resident relocation or termination of residency in the absence of certain specified conditions; requiring the administrator or employee of a facility to sign a notice of relocation or termination of residency and requiring a physician's signature under certain circumstances; requiring a licensee to provide advance written notice to the resident and other specified persons regarding relocation or termination of residency; providing that the notice contain certain information; providing for the creation of a form to submit relocation or termination of residency information and specifying information to be included therein; requiring a licensee to report relocation or termination of residency to the Office of State Long-term Care Ombudsman within a certain timeframe; permitting residents to seek the assistance of the local long-term care ombudsmen council in reviewing a notice of relocation or termination of residency; providing for emergency relocation and termination of residency; permitting the local long-term care ombudsmen council to request private informal contact with a resident upon receipt of a notice of relocation or termination of residency; authorizing the agency to adopt rules; amending s. 429.294, F.S.; deleting a cross-reference; amending s. 429.34, F.S.; providing for unannounced inspections; providing for additional 6-month inspections for certain violations; providing for an additional fine for 6-month inspections; amending s. 429.65, F.S.; providing a definition of the term "reside"; amending s. 429.67, F.S.; expanding the list of persons who must have a background screening in adult family-care homes; amending s. 429.69, F.S.; providing that the failure of a adult family-care home provider to live in the home is grounds for the denial, revocation, or suspension of a license; amending s. 429.73, F.S.; requiring adult family-care home residents to be periodically assessed for competency to handle personal affairs; amending ss. 435.03 and 435.04, F.S.; providing additional criminal offenses for screening certain health care facility personnel; repealing s. 400.141(13), F.S., relating to a requirement to post certain information in nursing homes; repealing s. 408.809(3), F.S., relating to the granting of a provisional license while awaiting the results of a background screening; repealing s. 429.08(2), F.S., deleting a provision relating to local workgroups of field offices of the Agency for Health Care Administration; repealing s. 429.41(5), F.S., relating to agency inspections; amending ss. 430.80 and 651.118, F.S.; conforming cross-references; providing an appropriation and authorizing additional positions; providing effective dates.

The question recurred on **Senate Amendment 1 (806500) to House Amendment 1** which was adopted.

On motion by Senator Storms, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

**CS for CS for CS for SB 2216** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

| | | |
|---|---|---|
| Mr. President | Dockery | Margolis |
| Alexander | Fasano | Oelrich |
| Aronberg | Gaetz | Peaden |
| Atwater | Garcia | Posey |
| Baker | Geller | Rich |
| Bennett | Haridopolos | Ring |
| Bullard | Hill | Saunders |
| Carlton | Jones | Siplin |
| Constantine | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |

Nays—None

Vote after roll call:

Yea to Nay—Bullard

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2692, with 1 amendment, and requests the concurrence of the Senate.

*William S. Pittman III*, Chief Clerk

**CS for SB 2692**—A bill to be entitled An act relating to the teaching of chemical and biological evolution; providing a short title; providing legislative intent; defining the term "scientific information"; providing public school teachers with a right to present scientific information relevant to the full range of views on biological and chemical evolution; prohibiting a teacher from being discriminated against for presenting such information; prohibiting students from being penalized for subscribing to a particular position on evolution; clarifying that the act does not require any change in state curriculum standards or promote any religious position; providing an effective date.

**House Amendment 1 (432103)(with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. Paragraph (u) is added to subsection (2) of section 1003.42, Florida Statutes, to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historic accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

*(u) A thorough presentation and scientific critical analysis of the scientific theory of evolution.*

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection.

Section 2. This act shall take effect October 1, 2008.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to evolutionary theory; amending s. 1003.42, F.S.; requiring public school instruction in, and the scientific critical analysis of, the scientific theory of evolution; providing an effective date.

On motion by Senator Storms, the Senate refused to concur in the House amendment to **CS for SB 2692** and the House was requested to recede. The action of the Senate was certified to the House.

## SPECIAL ORDER CALENDAR, continued

**CS for CS for SB 474**—A bill to be entitled An act relating to growth management; amending s. 70.51, F.S.; deleting an exemption from the limitation on the frequency of amendments of comprehensive plans; transferring, renumbering, and amending s. 125.379, F.S.; requiring counties to certify that they have prepared a list of county-owned property appropriate for affordable housing before obtaining certain funding; amending s. 163.3174, F.S.; prohibiting the members of the local governing body from serving on the local planning agency; providing an exception; amending s. 163.3177, F.S.; extending the date for local governments to adopt plan amendments to implement a financially feasible capital improvements element; extending the date for prohibiting future land use map amendments if a local government does not adopt and transmit its annual update to the capital improvements element; revising standards for the future land use plan in a local comprehensive plan; including a provision encouraging rural counties to adopt a rural subelement as part of their future land use plan; revising standards for the housing element of a local comprehensive plan; requiring certain counties to certify that they have adopted a plan for ensuring affordable workforce housing before obtaining certain funding; authorizing the state land planning agency to amend administrative rules relating to planning criteria to allow for varying local conditions; deleting exemptions from the limitation on the frequency of plan amendments; extending the deadline for local governments to adopt a public school facilities element and interlocal agreement; providing legislative findings concerning the need to preserve agricultural land and protect rural agricultural communities from adverse changes in the agricultural economy; defining the term "rural agricultural industrial center"; authorizing a landowner within a rural agricultural industrial center to apply for an amendment to the comprehensive plan to expand an existing center; providing requirements for such an application; providing a rebuttable presumption that such an amendment is consistent with state rule; providing certain exceptions to the approval of such an amendment; deleting provisions encouraging local governments to develop a community vision and to designate an urban service boundary; amending s. 163.31771, F.S.; requiring a local government to amend its comprehensive plan to allow accessory dwelling units in an area zoned for single-family residential use; prohibiting such units from being treated as new units if there is a land use restriction agreement that restricts use to affordable housing; prohibiting accessory dwelling units from being located on certain land; amending s. 163.3178, F.S.; revising provisions relating to coastal management and coastal high-hazard areas; providing factors for demonstrating the compliance of a comprehensive plan amendment with rule provisions relating to coastal areas; amending s. 163.3180, F.S.; revising concurrency requirements; specifying municipal areas for transportation concurrency exception areas; revising provisions relating to the Strategic Intermodal System; deleting a requirement for local governments to annually submit a summary of de minimus records; increasing the percentage of transportation impacts that must be reserved for urban redevelopment; requiring concurrency management systems to be coordinated with the appropriate metropolitan planning organization; revising regional impact proportionate share provisions to allow for improvements outside the jurisdiction in certain circumstances; providing for the determination of mitigation to include credit for certain mitigation provided under an earlier phase, calculated at present value; defining the terms "present value" and "backlogged transportation facility"; revising the calculation of school capacity to include relocatables used by a school district; providing a minimum state availability standard for school concurrency; providing that a developer may not be required to reduce or eliminate backlog or address class size reduction; requiring charter schools to be considered as a mitigation option under certain circumstances; requiring school districts to include relocatables in their calculation of school capacity in certain circumstances; providing for an Urban Placemaking Initiative Pilot Project Program; providing for designating certain local governments as urban placemaking initiative pilot projects; providing purposes, requirements, criteria, procedures, and limitations for such local governments, the pilot projects, and the program; authorizing a methodology based on vehicle and miles traveled for calculating proportionate fair-share methodology; providing transportation concurrency incentives for private developers; providing for recommendations for the establishment of a uniform mobility fee methodology to replace the current transportation concurrency management system; amending s. 163.31801, F.S.; requiring the provision of notice before the imposition of an increased impact fee; providing that the provision of notice is not required before decreasing or eliminating an impact fee; amending s. 163.3184, F.S.; requiring that potential applicants for a future land use map amendment applying to 50 or more acres conduct two meetings to present, discuss, and solicit public comment on the proposed amendment; requiring that one such meeting be conducted before the application is filed and the second meeting be conducted before adoption of the plan amendment; providing notice and procedure requirements for such meetings; requiring that applicants for a plan amendment applying to more than 11 acres but less than 50 acres conduct a meeting before the application is filed and encouraging a second meeting within a specified period before the local government's scheduled adoption hearing; providing for notice of such meeting; requiring that an applicant file with the local government a written certification attesting to certain information; exempting small-scale amendments from requirements related to meetings; revising a time period for comments on plan amendments; revising a time period for requesting state planning agency review of plan amendments; revising a time period for the state land planning agency to identify written comments on plan amendments for local governments; providing that an amendment is deemed abandoned under certain circumstances; authorizing the state land planning agency to grant extensions; requiring that a comprehensive plan or amendment to be adopted be available to the public; prohibiting certain types of changes to a plan amendment during a specified period before the hearing thereupon; requiring that the local government certify certain information to the state land planning agency; deleting exemptions from the limitation on the frequency of amendments of comprehensive plans; deleting provisions relating to community vision and urban boundary amendments to conform to changes made by the act; amending s. 163.3187, F.S.; limiting the adoption of certain plan amendments to twice per calendar year; limiting the adoption of certain plan amendments to once per calendar year; authorizing local governments to adopt certain plan amendments at any time during a calendar year without regard for restrictions on frequency; deleting certain types of amendments from the list of amendments eligible for adoption at any time during a calendar year; deleting exemptions from frequency limitations; providing circumstances under which small-scale amendments become effective; amending s. 163.3245, F.S.; revising provisions relating to optional sector plans; authorizing all local government to adopt optional sector plans into their comprehensive plan; increasing the size of the area to which sector plans apply; deleting certain restrictions on a local government upon entering into sector plans; deleting an annual monitoring report submitted by a host local government that has adopted a sector plan and a status report submitted by the department on optional sector plans; amending s. 163.3246, F.S.; discontinuing the Local Government Comprehensive Planning Certification Program except for currently certified local governments; retaining an exemption from DRI review for a certified community in certain circumstances; amending s. 163.32465, F.S.; revising provisions relating to the state review of comprehensive plans; providing additional types of amendments to which the alternative state review applies; providing a 30-day period for agency comments begins when the state land planning agency notifies the local government that the plan amendment package is complete; requiring adoption of a plan amendment within 120 days of receipt of agency comments or the plan amendment is deemed abandoned; revising the effective date of adopted plan amendments; providing procedural rulemaking authority to the state land planning agency; amending s. 163.340, F.S.; defining the term "blighted area" to include land previously used as a military facility; renumbering and amending s. 166.0451, F.S.; requiring municipalities to certify that they have prepared a list of county-owned property appropriate for affordable housing before obtaining certain funding; amending s. 253.034, F.S.; requiring that a manager of conservation lands report to the Board of Trustees of the Internal Improvement Trust Fund at specified intervals regarding those lands not being used for the purpose for which they

were originally leased; requiring that the Division of State Lands annually submit to the President of the Senate and the Speaker of the House of Representatives a copy of the state inventory identifying all nonconservation lands; requiring the division to publish a copy of the annual inventory on its website and notify by electronic mail the executive head of the governing body of each local government having lands in the inventory within its jurisdiction; amending s. 288.975, F.S.; deleting exemptions from the frequency limitations on comprehensive plan amendments; amending s. 380.06, F.S.; providing a 3-year extension for the buildout, commencement, and expiration dates of developments of regional impact and Florida Quality Developments, including associated local permits; providing an exception from development-of-regional-impact review; amending s. 380.0651, F.S.; providing an exemption from development-of-regional impact review; amending s. 1002.33, F.S.; restricting facilities from providing space to charter schools unless such use is consistent with the local comprehensive plan; prohibiting the expansion of certain facilities to accommodate for a charter school unless such use is consistent with the local comprehensive plan; creating s. 1011.775, F.S.; requiring that each district school board prepare an inventory list of certain real property on or before a specified date and at specified intervals thereafter; requiring that such list include certain information; requiring that the district school board review the list at a public meeting and make certain determinations; requiring that the board state its intended use for certain property; authorizing the board to revise the list at the conclusion of the public meeting; requiring that the board adopt a resolution; authorizing the board to offer certain properties for sale and use the proceeds for specified purposes; authorizing the board to make the property available for the production and preservation of permanent affordable housing; defining the term "affordable" for specified purposes; repealing s. 339.282, F.S., relating to transportation concurrency incentives; amending s. 1013.372, F.S.; requiring that certain charter schools serve as public shelters at the request of the local emergency management agency; amending ss. 163.3217, 163.3182, and 171.203, F.S.; deleting exemptions from the limitation on the frequency of amendments of comprehensive plans; providing an effective date.

—was read the second time by title.

**MOTION**

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

Senator Garcia moved the following amendment:

**Amendment 1 (842906)(with title amendment)**—Delete line(s) 223-1114 and insert:

Section 1. Section 125.379, Florida Statutes, is transferred, renumbered as section 163.32431, Florida Statutes, and amended to read:

*163.32431* ~~125.379~~ Disposition of county property for affordable housing.—

(1) By July 1, 2007, and every 3 years thereafter, each county shall prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing. The inventory list must include the address and legal description of each ~~such~~ real property and specify whether the property is vacant or improved. The governing body of the county must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The governing body of the county shall adopt a resolution that includes an inventory list of *the* ~~such~~ property following the public hearing.

(2) The properties identified as appropriate for use as affordable housing on the inventory list adopted by the county may be offered for sale and the proceeds used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, or may be donated to a nonprofit housing organization for the construction of permanent affordable housing. Alternatively, the county may otherwise make the property available for use for the production and preservation of permanent affordable housing. For purposes of this section, the term "affordable" has the same meaning as in s. 420.0004(3).

*(3) As a precondition to receiving any state affordable housing funding or allocation for any project or program within a county's jurisdiction, a county must, by July 1 of each year, provide certification that the inventory and any update required by this section are complete.*

Section 2. 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. *Members of* the *local* governing body may *not serve on* ~~designate itself as~~ the local planning agency pursuant to this subsection*, except in a municipality having a population of 10,000 or fewer* ~~with the addition of a nonvoting school board representative~~. The *local* 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 *local* governing body regarding the adoption or amendment of the plan. The *local planning* 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:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(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.

Section 3. Paragraph (b) of subsection (3), paragraph (a) of subsection (4), paragraphs (a), (c), (f), (g), and (h) of subsection (6), paragraph (i) of subsection (10), paragraph (i) of subsection (12), and subsections (13) and (14) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)

(b)1. The capital improvements element must be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities must be consistent with the capital improvements element. Amendments to implement this section must be adopted and transmitted no later than December 1, *2009* ~~2008~~. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments

pursuant to s. 163.3187(1)(a), after December 1, *2009* ~~2008~~, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.0361; with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to ~~the provisions of~~ paragraph (11)(d), as overlays on the future land use map.

*1.* Each future land use category must be defined in terms of uses included, and must include standards *for* ~~to be followed in~~ the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives.

*2.* The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; *the discouragement of urban sprawl; energy-efficient land use patterns that reduce vehicle miles traveled;* and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

*3.* The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act.

*4.* The future land use plan element shall include criteria ~~to be used~~ to achieve the compatibility of adjacent or closely proximate lands with military installations.

*5. Counties are encouraged to adopt a rural sub-element as a part of the future land use plan. The sub-element shall apply to all lands classified in the future land use plan as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use. The rural sub-element shall include goals, objectives, and policies that enhance rural economies, promote the viability of agriculture, provide for appropriate economic development, discourage urban sprawl, and ensure the protection of natural resources. The rural sub-element shall generally identify anticipated areas of rural, agricultural, and conservation and areas that may be considered for conversion to urban land use and appropriate sites for affordable housing. The rural sub-element shall also generally identify areas that may be considered for rural land stewardship areas, sector planning, or new communities or towns in accordance with subsection (11) and s. 163.3245(2).* ~~In addition,~~ For rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and *may* ~~shall~~ not be limited solely by the projected population of the rural community.

*6.* The future land use plan of a county may also designate areas for possible future municipal incorporation.

*7.* The land use maps or map series shall generally identify and depict historic district boundaries and ~~shall~~ designate historically significant properties meriting protection.

*8.* For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07.

*9.* The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating *such* ~~the~~ land use categories ~~in which public schools are an allowable use~~, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. ~~The failure by a local government to comply with these school siting requirements will result in the prohibition of~~ The local *government may not* ~~government's ability to~~ amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. ~~Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187.~~ The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county *having* ~~with~~ a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b). If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the

water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. ~~Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan.~~ Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

(f)1. A housing element consisting of standards, plans, and principles to be followed in:

a. The provision of housing for all current and anticipated future residents of the jurisdiction.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(j), housing for low-income, very low-income, and moderate-income families, mobile homes, *senior affordable housing,* and group home facilities and foster care facilities, with supporting infrastructure and public facilities. *This includes compliance with the applicable public lands provision under s. 163.32431 or s. 163.32432.*

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.

f. The formulation of housing implementation programs.

g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

*(I)*~~h.~~ By July 1, 2008, each county in which the gap between the buying power of a family of four and the median county home sale price exceeds $170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern shall adopt a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. For purposes of this sub-subparagraph, the term "workforce housing" means housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.

*(II)*~~i.~~ *As a precondition to receiving any state affordable housing funding or allocation for any project or program within the jurisdiction of a county that is subject to sub-sub-subparagraph (I), a county must, by July 1 of each year, provide certification that the county has complied with the requirements of sub-sub-subparagraph (I).* ~~Failure by a local government to comply with the requirement in sub-subparagraph h. will result in the local government being ineligible to receive any state housing assistance grants until the requirement of sub-subparagraph h. is met.~~

*2.* The goals, objectives, and policies of the housing element must be based on the data and analysis prepared on housing needs, including the affordable housing needs assessment. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to *use* ~~utilize~~ job training, job creation, and economic solutions to address a portion of their affordable housing concerns.

*3.*~~2.~~ To assist local governments in housing data collection and analysis and assure uniform and consistent information regarding the state's housing needs, the state land planning agency shall conduct an affordable housing needs assessment for all local jurisdictions on a schedule that coordinates the implementation of the needs assessment with the evaluation and appraisal reports required by s. 163.3191. Each local government shall *use* ~~utilize~~ the data and analysis from the needs assessment as one basis for the housing element of its local comprehensive plan. The agency shall allow a local government ~~the option~~ to perform its own needs assessment~~,~~ if it uses the methodology established by the agency by rule.

(g)1. For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

a. Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

b. Continued existence of viable populations of all species of wildlife and marine life.

c. The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

d. Avoidance of irreversible and irretrievable loss of coastal zone resources.

e. Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.

f. Proposed management and regulatory techniques.

g. Limitation of public expenditures that subsidize development in high-hazard coastal areas.

h. Protection of human life against the effects of natural disasters.

i. The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.

j. Preservation, including sensitive adaptive use of historic and archaeological resources.

2. As part of this element, a local government that has a coastal management element in its comprehensive plan is encouraged to adopt recreational surface water use policies that include applicable criteria for and consider such factors as natural resources, manatee protection needs, protection of working waterfronts and public access to the water, and recreation and economic demands. Criteria for manatee protection in the recreational surface water use policies should reflect applicable guidance outlined in the Boat Facility Siting Guide prepared by the Fish and Wildlife Conservation Commission. ~~If the local government elects to adopt recreational surface water use policies by comprehensive plan amendment, such comprehensive plan amendment is exempt from the provisions of s. 163.3187(1).~~ Local governments that wish to adopt recreational surface water use policies may be eligible for assistance with the development of such policies through the Florida Coastal Management Program. The Office of Program Policy Analysis and Government Accountability shall submit a report on the adoption of recreational surface water use policies under this subparagraph to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives no later than December 1, 2010.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of

adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide for procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30.

c. The intergovernmental coordination element may provide for a voluntary dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. A local government may develop and use an alternative local dispute resolution process for this purpose.

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.~~a.~~ Local governments must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

~~b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).~~

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

(10) The Legislature recognizes the importance and significance of chapter 9J-5, Florida Administrative Code, the Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance of the Department of Community Affairs that will be used to determine compliance of local comprehensive plans. The Legislature reserved unto itself the right to review chapter 9J-5, Florida Administrative Code, and to reject, modify, or take no action relative to this rule. Therefore, pursuant to subsection (9), the Legislature hereby has reviewed chapter 9J-5, Florida Administrative Code, and expresses the following legislative intent:

(i) *The Legislature recognizes that due to varying local conditions, local governments have different planning needs that cannot be addressed by one uniform set of minimum planning criteria. Therefore, the state land planning agency may amend chapter 9J-5, Florida Administrative Code, to establish different minimum criteria that are applicable to local governments based on the following factors:*

*1. Current and projected population.*

*2. Size of the local jurisdiction.*

*3. Amount and nature of undeveloped land.*

*4. The scale of public services provided by the local government.*

The *state land planning agency* ~~department~~ shall take into account the factors delineated in rule 9J-5.002(2), Florida Administrative Code, as it provides assistance to local governments and applies the rule in specific situations with regard to the detail of the data and analysis required.

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(i) The state land planning agency shall establish a phased schedule for adoption of the public school facilities element and the required updates to the public schools interlocal agreement pursuant to s. 163.31777. The schedule shall provide for each county and local government within the county to adopt the element and update to the agreement no later than December 1, *2009* ~~2008~~. Plan amendments to adopt a public school facilities element are exempt from the provisions of s. 163.3187(1).

(13)*(a) The Legislature recognizes and finds that:*

*1. There are a number of rural agricultural industrial centers in the state which process, produce, or aid in the production or distribution of a variety of agriculturally based products, such as fruits, vegetables, timber, and other crops, as well as juices, paper, and building materials. These rural agricultural industrial centers may have a significant amount of existing associated infrastructure that is used for the processing, production, or distribution of agricultural products.*

*2. Such rural agricultural industrial centers often are located within or near communities in which the economy is largely dependent upon agriculture and agriculturally based products. These centers significantly enhance the economy of such communities. However, these agriculturally based communities often are socioeconomically challenged and many such communities have been designated as rural areas of critical economic concern. If these existing rural agricultural industrial centers are lost and or not replaced with other job-creating enterprises, these agriculturally based communities may lose a substantial amount of their economies.*

*3. The state has a compelling interest in preserving the viability of agriculture and protecting rural agricultural communities and the state from the economic upheaval that could result from short-term or long-term adverse changes in the agricultural economy. To protect such communities and promote viable agriculture for the long term, it is essential*

*to encourage and permit diversification of existing rural agricultural industrial centers by providing for jobs that are not solely dependent upon but are compatible with and complement existing agricultural industrial operations and to encourage the creation and expansion of industries that use agricultural products in innovative or new ways. However, the expansion and diversification of these existing centers must be accomplished in a manner that does not promote urban sprawl into surrounding agricultural and rural areas.*

*(b) As used in this subsection, the term "rural agricultural industrial center" means a developed parcel of land in an unincorporated area on which there exists an operating agricultural industrial facility or facilities that employ at least 200 full-time employees in the aggregate and that are used for processing and preparing for transport a farm product, as defined in s. 163.3162, or any biomass material that could be used, directly or indirectly, for the production of fuel, renewable energy, bioenergy, or alternative fuel as defined by state law. The center may also include land contiguous to the facility site which is not used for the cultivation of crops, but on which other existing activities essential to the operation of such facility or facilities are located or conducted. The parcel of land must be located within or in reasonable proximity, not to exceed 10 miles, to a rural area of critical economic concern.*

*(c) A landowner within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan for the purpose of designating and expanding the existing agricultural industrial uses or facilities located in the center or expanding the existing center to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and the existing uses and facilities. An application for a comprehensive plan amendment under this paragraph:*

*1. May not increase the physical area of the original existing rural agricultural industrial center by more than 50 percent or 200 acres, whichever is greater;*

*2. Must propose a project that would create, upon completion, at least 50 new full-time jobs;*

*3. Must demonstrate that infrastructure capacity exists or will be provided to support the expanded center at level-of-service standards adopted in the local government comprehensive plan;*

*4. Must contain goals, objectives, and policies that will prevent urban sprawl in the areas surrounding the expanded center, or demonstrate that the local government comprehensive plan contains such provisions; and*

*5. Must contain goals, objectives, and policies that will ensure that any adverse environmental impacts of the expanded center will be adequately addressed and mitigated, or demonstrate that the local government comprehensive plan contains such provisions.*

*An amendment that meets the requirements of this subsection is presumed to be consistent with rule 9J-5.006(5), Florida Administrative Code. This presumption may be rebutted by a preponderance of the evidence.*

*(d) This subsection does not apply to an optional sector plan adopted pursuant to s. 163.3245 or to a rural land stewardship area designated pursuant to subsection (11).* ~~Local governments are encouraged to develop a community vision that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the request of a local government, the applicable regional planning council shall provide assistance in the development of a community vision.~~

~~(a) As part of the process of developing a community vision under this section, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.~~

~~(b) The local government must, at a minimum, discuss five of the following topics as part of the workshops and public meetings required under paragraph (a):~~

~~1. Future growth in the area using population forecasts from the Bureau of Economic and Business Research;~~

~~2. Priorities for economic development;~~

~~3. Preservation of open space, environmentally sensitive lands, and agricultural lands;~~

~~4. Appropriate areas and standards for mixed-use development;~~

~~5. Appropriate areas and standards for high-density commercial and residential development;~~

~~6. Appropriate areas and standards for economic development opportunities and employment centers;~~

~~7. Provisions for adequate workforce housing;~~

~~8. An efficient, interconnected multimodal transportation system; and~~

~~9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs 1.-8.~~

~~(c) As part of the workshops and public meetings, the local government must discuss strategies for addressing the topics discussed under paragraph (b), including:~~

~~1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a healthy agricultural economy, including innovative planning and development strategies, such as the transfer of development rights;~~

~~2. Incentives for mixed-use development, including increased height and intensity standards for buildings that provide residential use in combination with office or commercial space;~~

~~3. Incentives for workforce housing;~~

~~4. Designation of an urban service boundary pursuant to subsection (2); and~~

~~5. Strategies to provide mobility within the community and to protect the Strategic Intermodal System, including the development of a transportation corridor management plan under s. 337.273.~~

~~(d) The community vision must reflect the community's shared concept for growth and development of the community, including visual representations depicting the desired land use patterns and character of the community during a 10-year planning timeframe. The community vision must also take into consideration economic viability of the vision and private property interests.~~

~~(e) After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the community vision as a component in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in paragraph (a).~~

~~(f) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.~~

~~(g) A local government that has developed a community vision or completed a visioning process after July 1, 2000, and before July 1, 2005, which substantially accomplishes the goals set forth in this subsection and the appropriate goals, policies, or objectives have been adopted as part of the comprehensive plan or reflected in subsequently adopted land development regulations and the plan amendment incorporating the community vision as a component has been found in compliance is eligible for the incentives in s. 163.3184(17).~~

~~(14) Local governments are also encouraged to designate an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year planning timeframe. The urban service area boundary must be identified on the future land use map or map series. The local government shall demonstrate that the land included within the urban service boundary is served or is planned to be served with adequate public facilities and services based on the local government's adopted level-of-service standards by adopting a 10-year facilities plan in the capital improvements element which is financially feasible. The local government shall demonstrate that the amount of land within the urban service boundary does not exceed the amount of~~

~~land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning timeframe.~~

~~(a) As part of the process of establishing an urban service boundary, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.~~

~~(b)1. After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the urban service boundary. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at meetings of the governing body other than those required under paragraph (a).~~

~~2. This subsection does not prohibit new development outside an urban service boundary. However, a local government that establishes an urban service boundary under this subsection is encouraged to require a full-cost-accounting analysis for any new development outside the boundary and to consider the results of that analysis when adopting a plan amendment for property outside the established urban service boundary.~~

~~(c) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.~~

~~(d) A local government that has adopted an urban service boundary 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 the incentives under s. 163.3184(17). In order to satisfy the provisions of this paragraph, the local government must secure a determination from the state land planning agency that the urban service boundary adopted before July 1, 2005, substantially complies with the criteria of this subsection, based on data and analysis submitted by the local government to support this determination. The determination by the state land planning agency is not subject to administrative challenge.~~

Section 4. Subsections (3), (4), (5), and (6) of section 163.31771, Florida Statutes, are amended to read:

163.31771 Accessory dwelling units.—

(3) Upon a finding by a local government that there is a shortage of affordable rentals within its jurisdiction, the local government may *amend its comprehensive plan* ~~adopt an ordinance~~ to allow accessory dwelling units in any area zoned for single-family residential use.

(4) If the local government *amends its comprehensive plan pursuant to* ~~adopts an ordinance under~~ this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.

(5) Each accessory dwelling unit allowed by *the comprehensive plan* ~~an ordinance adopted under this section~~ shall apply toward satisfying the affordable housing component of the housing element in the local government's comprehensive plan under s. 163.3177(6)(f)*, and if such unit is subject to a recorded land use restriction agreement restricting its use to affordable housing, the unit may not be treated as a new unit for purposes of transportation concurrency or impact fees. Accessory dwelling units may not be located on land within a coastal high-hazard area or on lands identified as environmentally sensitive in the local comprehensive plan.*

~~(6) The Department of Community Affairs shall evaluate the effectiveness of using accessory dwelling units to address a local government's shortage of affordable housing and report to the Legislature by January 1, 2007. The report must specify the number of ordinances adopted by a local government under this section and the number of accessory dwelling units that were created under these ordinances.~~

Section 5. Paragraph (h) of subsection (2) and subsection (9) of section 163.3178, Florida Statutes, are amended to read:

163.3178 Coastal management.—

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(h) Designation of coastal high-hazard areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as *provided* ~~defined~~ in subsection (9). The coastal high-hazard area is the area *seaward of* ~~below~~ the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. *Except as demonstrated by site-specific, reliable data and analysis, the coastal high-hazard area includes all lands within the area from the mean low-water line to the inland extent of the category 1 storm surge area. Such area is depicted by, but not limited to, the areas illustrated in the most current SLOSH Storm Surge Atlas.* Application of mitigation and the application of development and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of *the* local government.

(9)~~(a)~~ Local governments may elect to comply with *state coastal high-hazard provisions pursuant to* rule 9J-5.012(3)(b)6. and 7., Florida Administrative Code, through the process provided in this section.

*(a)* A proposed comprehensive plan amendment shall be found in compliance ~~with state coastal high-hazard provisions pursuant to rule 9J-5.012(3)(b)6. and 7., Florida Administrative Code,~~ if:

1. *The area subject to the amendment is not:*

*a. Within a designated area of critical state concern;*

*b. Inclusive of areas within the FEMA velocity zones;*

*c. Subject to coastal erosion;*

*d. Seaward of the coastal construction control line; or*

*e. Subject to repetitive damage from coastal storms and floods.*

*2. The local government has adopted the following as a part of its comprehensive plan:*

*a. Hazard mitigation strategies that reduce, replace, or eliminate unsafe structures and properties subject to repetitive losses from coastal storms or floods.*

*b. Measures that reduce exposure to hazards including:*

*(I) Relocation;*

*(II) Structural modifications of threatened infrastructure;*

*(III) Provisions for operational or capacity improvements to maintain hurricane evacuation clearance times within established limits; and*

*(IV) Prohibiting public expenditures for capital improvements that subsidize increased densities and intensities of development within the coastal high-hazard area.*

*c. A postdisaster redevelopment plan.*

*3.a.* The adopted level of service for out-of-county hurricane evacuation *clearance time* is maintained for a category 5 storm event as measured on the Saffir-Simpson scale *if the adopted out-of-county hurricane evacuation clearance time does not exceed 16 hours and is based upon the time necessary to reach shelter space*;

*b.*~~2.~~ A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or

*c.*~~3.~~ Appropriate mitigation is provided *to ensure* that *the requirements of sub-subparagraph a. or sub-subparagraph b. are achieved.* ~~will satisfy the provisions of subparagraph 1. or subparagraph 2.~~ Appropriate mitigation shall include, without limitation, payment of money, con-

tribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation *may* ~~shall~~ not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to *establish* ~~memorialize~~ the mitigation plan. *The executed agreement must be submitted along with the adopted plan amendment.*

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, *2009* ~~2008~~, but elect to comply ~~with rule 9J-5.012(3)(b)6. and 7., Florida Administrative Code,~~ by following the process in paragraph (a), the level of service *may not exceed* ~~shall be no greater than~~ 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale *based upon the time necessary to reach shelter space*.

(c) This subsection *applies* ~~shall become effective immediately and shall apply~~ to all local governments. *By* ~~No later than~~ July 1, *2009* ~~2008~~, local governments shall amend their future land use map and coastal management element to include the ~~new~~ definition of coastal high-hazard area *provided in paragraph (2)(h)* and to depict the coastal high-hazard area on the future land use map.

Section 6. Section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(1) *APPLICABILITY OF CONCURRENCY REQUIREMENT.*—

(a) *Public facility types.*—Sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement ~~so that it applies~~ to *apply to* additional public facilities within its jurisdiction.

(b) *Transportation methodologies.*—Local governments shall use professionally accepted techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and trucks. These techniques may be used to evaluate increased accessibility by multiple modes and reductions in vehicle miles of travel in an area or zone. The *state land planning agency and the* Department of Transportation shall develop methodologies to assist local governments in implementing this multimodal level-of-service analysis *and*~~. The Department of Community Affairs and the Department of Transportation~~ shall provide technical assistance to local governments in applying *the* ~~these~~ methodologies.

(2) *PUBLIC FACILITY AVAILABILITY STANDARDS.*—

(a) *Sanitary sewer, solid waste, drainage, adequate water supply, and potable water facilities.*—Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available *by* ~~no later than~~ the anticipated date of issuance ~~by the local government~~ of *the* ~~a~~ certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

(b) *Parks and recreation facilities.*—Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction *within* ~~no later than~~ 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities *must* ~~shall~~ be dedicated or be acquired by the local government prior to issuance ~~by the local government~~ of *the* ~~a~~ certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than the local government's approval to commence construction.

(c) *Transportation facilities.*—Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development *must* ~~shall~~ be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(3) *ESTABLISHING LEVEL-OF-SERVICE STANDARDS.*—Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards on governmental entities that do bear those responsibilities. This subsection does not limit the authority of any agency to recommend or make objections, recommendations, comments, or determinations during reviews conducted under s. 163.3184.

(4) *APPLICATION OF CONCURRENCY TO PUBLIC FACILITIES.*—

(a) *State and other public facilities.*—The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(b) *Public transit facilities.*—The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft. As used in this paragraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

(c) *Infill and redevelopment areas.*—The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such ~~a~~ waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver *must* ~~shall~~ be adopted as a plan amendment *using* ~~pursuant to~~ the process ~~set forth~~ in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within ~~these~~ urban infill and redevelopment areas.

(5) *TRANSPORTATION CONCURRENCY EXCEPTION AREAS.*—

(a) *Countervailing planning and public policy goals.*—The Legislature finds that under limited circumstances ~~dealing with transportation facilities~~, countervailing planning and public policy goals may come into conflict with the requirement that adequate public *transportation* facilities and services be available concurrent with the impacts of such development. The Legislature further finds that ~~often~~ the unintended result of the concurrency requirement for transportation facilities is *often* the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. *The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers.* Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) *Geographic applicability.*—

*1. Within municipalities, transportation concurrency exception areas are established for geographic areas identified in the adopted portion of the comprehensive plan as of July 1, 2008, for:*

*a. Urban infill development;*

*b. Urban redevelopment;*

*c. Downtown revitalization; or*

*d. Urban infill and redevelopment under s. 163.2517.*

*2. In other portions of the state, including municipalities and unincorporated areas of counties,* a local government may *adopt a comprehensive plan amendment establishing a transportation concurrency exception area* ~~grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located~~ within an area designated in the comprehensive plan for:

*a.*~~1.~~ Urban infill development;

*b.*~~2.~~ Urban redevelopment;

*c.*~~3.~~ Downtown revitalization;

*d.*~~4.~~ Urban infill and redevelopment under s. 163.2517; or

*e.*~~5.~~ An urban service area *consisting of* ~~specifically designated as a transportation concurrency exception area which includes~~ lands appropriate for compact~~,~~ contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) *Projects having special part-time demands.*—The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) *Long-term strategies within transportation concurrency exception areas.—Except for transportation concurrency exception areas established pursuant to subparagraph (b)1., the following requirements apply:* ~~A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.~~

*1.*~~(e)~~ The local government shall adopt into the plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must ~~also~~ demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

*2.* ~~In addition,~~ The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the ~~concurrency~~ exception area must be accompanied by data and analysis justifying the size of the area.

*(e)*~~(f)~~ *Strategic Intermodal System.*—Prior to the designation of a concurrency exception area *pursuant to subparagraph (b)2.*, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities~~, as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819 *and to provide for mitigation of the impacts*. Further, *as a part of the comprehensive plan amendment establishing the exception area,* the local government shall *provide for mitigation of impacts*~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any impacts~~ to the Strategic Intermodal System, including, if appropriate, *access management, parallel reliever roads, transportation demand management, or other measures* ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.~~

~~(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(6) *DE MINIMIS IMPACT.*—The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that *does* ~~would~~ not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. *An* ~~No~~ impact *is not* ~~will be~~ de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility *exceeds* ~~would exceed~~ 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; ~~provided~~ however, *the* ~~that an~~ impact of a single family home on an existing lot *is* ~~will constitute~~ a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Further, *an* ~~no~~ impact *is not* ~~will be~~ de minimis if it *exceeds* ~~would exceed~~ the adopted level-of-service standard of any affected designated hurricane evacuation routes. Each local government shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. ~~Each local government shall submit annually, with its updated capital improvements element, a summary of the de minimis records. If the state land planning agency determines that the 110-percent criterion has been exceeded, the state land planning agency shall notify the local government of the exceedance and that no further de minimis exceptions for the applicable roadway may be granted until such time as the volume is reduced below the 110 percent. The local government shall provide proof of this reduction to the state land planning agency before issuing further de minimis exceptions.~~

(7) *CONCURRENCY MANAGEMENT AREAS.*—In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area *that has* ~~with~~ an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for ~~such~~ a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, *the local government shall consult with the state land planning agency and* the Department of Transportation ~~shall be consulted by the local government~~ to assess the impact that the proposed concurrency management area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities~~, as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the *state land planning agency and the* Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). ~~Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~ The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(8) *URBAN REDEVELOPMENT.*—When assessing the transportation impacts of proposed urban redevelopment within an established existing urban service area, *150* ~~110~~ percent of the actual transportation impact caused by the previously existing development must be reserved for the redevelopment, even if the previously existing development has a lesser or nonexisting impact pursuant to the calculations of the local government. Redevelopment requiring less than *150* ~~110~~ percent of the previously existing capacity *may* ~~shall~~ not be prohibited due to the reduction of transportation levels of service below the adopted standards. This does not preclude the appropriate assessment of fees or accounting for the impacts within the concurrency management system and capital improvements program of the affected local government. This paragraph does not affect local government requirements for appropriate development permits.

(9) *LONG-TERM CONCURRENCY MANAGEMENT.*—

(a) Each local government may adopt, as a part of its plan, long-term transportation and school concurrency management systems *that have* ~~with~~ a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders that authorize commencement of construction in these designated districts or areas. The concurrency management system must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities *and be coordinated with the appropriate metropolitan planning organization*. The concurrency management system must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow it to develop a plan and long-term schedule of capital improvements covering up to 15 years for good and sufficient cause, based on a general comparison between *the* ~~that~~ local government and all other similarly situated local jurisdictions, using the following factors:

1. The extent of the backlog.

2. For roads, whether the backlog is on local or state roads.

3. The cost of eliminating the backlog.

4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding this section, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.

*(e) The Department of Transportation shall develop a transportation methodology to determine the internal capture rate of a development of regional impact when fully developed. The transportation methodology must use a regional transportation model that incorporates professionally accepted modeling techniques applicable to such developments. The methodology review must be completed by March 1, 2009.*

(10) *TRANSPORTATION LEVEL-OF-SERVICE STANDARDS.*—With regard to roadway facilities on the Strategic Intermodal System designated in accordance with *s.* ~~ss. 339.61, 339.62,~~ 339.63, ~~and 339.64,~~ the Florida Intrastate Highway System ~~as defined in s. 338.001~~, and roadway facilities funded in accordance with s. 339.2819, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(11) *LIMITATION OF LIABILITY.*—In order to limit the liability of local governments, a local government may allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy transportation concurrency, *if* ~~when~~ all the following factors ~~are shown to~~ exist:

(a) The local government *that has* ~~with~~ jurisdiction over the property has adopted a local comprehensive plan that is in compliance.

(b) The proposed development *is* ~~would be~~ consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

(c) The local plan includes a financially feasible capital improvements element that provides for transportation facilities adequate to serve the proposed development, and the local government has not implemented that element.

(d) The local government has provided a means *for assessing* ~~by which~~ the landowner *for* ~~will be assessed~~ a fair share of the cost of providing the transportation facilities necessary to serve the proposed development.

(e) The landowner has made a binding commitment to the local government to pay the fair share of the cost of providing the transportation facilities to serve the proposed development.

(12) *REGIONAL IMPACT PROPORTIONATE SHARE.*—

*(a)* A development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

*1.*~~(a)~~ The development of regional impact which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;

*2.*~~(b)~~ The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required mobility improvements that will benefit *the network of* ~~a~~ regionally significant transportation *facilities. The state land planning agency may appeal the development order pursuant to s.380.07 if the development order directs transportation mobility improvements under this subsection to one or more local governments in a manner that is substantially disproportionate to the extrajurisdictional impacts of the development of regional impact on significantly affected local governments after taking into consideration the overall benefit to the regional transportation network* ~~facility~~;

*3.*~~(c)~~ The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

*4.*~~(d)~~ ~~If~~ The regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. *334.03* ~~334.03(12)~~, other than the local government *that has* ~~with~~ jurisdiction over the development of regional impact, the developer *must* ~~is required to~~ enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

*(b)* The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan. ~~, but,~~ For the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. *The determination of mitigation for a subsequent phase or stage of development shall account for any mitigation required by the development order and provided by the developer for any earlier phase or stage, calculated at present value. For purposes of this subsection, the term:*

*1. "Backlogged transportation facility" means a facility on which the adopted level-of-service standard is exceeded by the existing trips plus*

*committed trips. A developer may not be required to fund or construct proportionate-share mitigation for any backlogged transportation facility which is more extensive than mitigation necessary to offset the impact of the development project in question.*

*2.* ~~For purposes of this subsection,~~ "Construction cost" includes all associated costs of the improvement. *The proportionate-share contribution shall include the costs associated with accommodating a transit facility within the development of regional impact which is in a county's or the Department of Transportation's long-range plan and shall be credited against a development of regional impact's proportionate-share contribution.* Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

*3. "Present value" means the fair market value of right-of-way at the time of contribution or the actual dollar value of the construction improvements contribution adjusted by the Consumer Price Index.*

This subsection also applies to Florida Quality Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

(13) *SCHOOL CONCURRENCY.*—School concurrency shall be established on a districtwide basis and ~~shall~~ include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(a) Public school facilities element.—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level-of-service standards.—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards *may use* ~~shall have the option to utilize~~ tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

*4. For purposes of determining whether levels of service have been achieved, a school district that includes relocatables in its inventory of student stations shall include the capacity of such relocatables as provided in s. 1013.35(2)(b)2.f.*

(c) Service areas.—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for ~~purposes of~~ determining whether the local government has a financially feasible public school capital facilities program *for* ~~that will provide~~ schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development *is* ~~will be~~ based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden *of demonstrating* ~~to demonstrate~~ that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, ~~then~~ the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be shifted to contiguous service areas with schools having available capacity.

(d) Financial feasibility.—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that ~~the~~ public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards *for determining* ~~to determine~~ the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency *must* ~~shall~~ contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with ~~the requirements of~~ s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element *must* ~~shall~~ set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained.

2. Such amendments *to the capital improvements element must* ~~shall~~ demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. *If* ~~When~~ the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation *must* ~~shall~~ be based upon the service areas selected by the local governments and school board.

(e) Availability standard.—Consistent with the public welfare, *and except as otherwise provided in this subsection, public school facilities needed to serve new residential development shall be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent.* A local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will

be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. *Any mitigation required of a developer shall be limited to ensure that a development mitigates its own impact on public school facilities, but is not responsible for the additional cost of reducing or eliminating backlogs or addressing class size reduction.* School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; *the construction of a charter school that complies with the requirements of s. 1002.33(18)(f);* or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, *or the construction of a charter school that complies with the requirements of s. 1002.33(18)(f),* as proportionate-share mitigation, the local government shall credit such ~~a~~ contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value. *For proportionate-share calculations, the percentage of relocatables, as provided in s. 1013.35(2)(b)2.f., which are used by a school district shall be considered in determining the average cost of a student station.*

*4.*~~3.~~ Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

*5.*~~4.~~ If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

*6.*~~5.~~ This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

(f) Intergovernmental coordination.—

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for imposition of school concurrency, and as a nonsignatory, *may* ~~shall~~ not participate in the adopted local school concurrency system~~,~~ if the municipality meets all of the following criteria for *not* having *a* ~~no~~ significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality *that* ~~which~~ qualifies as *not* having *a* ~~no~~ significant impact on school attendance pursuant to ~~the criteria of~~ subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.31777(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it *is* ~~will be~~ subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.—When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement *must* ~~shall~~ acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal agreement *must* ~~shall~~ meet the following requirements:

1. Establish ~~the~~ mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process for *developing* ~~the development of~~ siting criteria *that* ~~which~~ encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program *that* ~~which~~ is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement *must* ~~shall~~ establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement *must* ~~shall~~ also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement *must* ~~shall~~ ensure maximum utilization of school capacity, taking

into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement *must* ~~shall~~ also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, ~~and~~ programmed improvements for affected schools*,* and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) Local government authority.—This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(14) *RULEMAKING AUTHORITY.*—The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

(15) *MULTIMODAL DISTRICTS.*—

(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as *designated in s. 339.63* ~~defined in s. 339.64~~, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). ~~Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(b) Community design elements of ~~such~~ a *multimodal transportation* district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, *if* ~~when~~ justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(e) By December 1, 2007, the Department of Transportation, in consultation with the state land planning agency and interested local governments, may designate a study area for conducting a pilot project to determine the benefits of and barriers to establishing a regional multimodal transportation concurrency district that extends over more than one local government jurisdiction. If designated:

1. The study area must be in a county that has a population of at least 1,000 persons per square mile, be within an urban service area, and have the consent of the local governments within the study area. The Department of Transportation and the state land planning agency shall provide technical assistance.

2. The local governments within the study area and the Department of Transportation, in consultation with the state land planning agency, shall cooperatively create a multimodal transportation plan that meets the requirements of this section. The multimodal transportation plan must include viable local funding options and incorporate community design features, including a range of mixed land uses and densities and intensities, which will reduce the number of automobile trips or vehicle miles of travel while supporting an integrated, multimodal transportation system.

3. To effectuate the multimodal transportation concurrency district, participating local governments may adopt appropriate comprehensive plan amendments.

4. The Department of Transportation, in consultation with the state land planning agency, shall submit a report by March 1, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the pilot project. The report must identify any factors that support or limit the creation and success of a regional multimodal transportation district including intergovernmental coordination.

*(f) The state land planning agency may designate up to five local governments as Urban Placemaking Initiative Pilot Projects. The purpose of the pilot project program is to assist local communities with redevelopment of primarily single-use suburban areas that surround strategic corridors and crossroads, and to create livable, sustainable communities that have a sense of place. Pilot communities must have a county population of at least 350,000, be able to demonstrate an ability to administer the pilot project, and have appropriate potential redevelopment areas suitable for the pilot project. Recognizing that both the form of existing development patterns and strict application of transportation concurrency requirements create obstacles to such redevelopment, the pilot project program shall further the ability of such communities to cultivate mixed-use and form-based communities that integrate all modes of transportation. The pilot project program shall provide an alternative regulatory framework that allows for the creation of a multimodal concurrency district that over the planning time period allows pilot project communities to incrementally realize the goals of the redevelopment area by guiding redevelopment of parcels and cultivating multimodal development in targeted transitional suburban areas. The Department of Transportation shall provide technical support to the state land planning agency and the department and the agency shall provide technical assistance to the local governments in the implementation of the pilot projects.*

*1. Each pilot project community shall adopt criteria for designation of specific urban placemaking redevelopment areas and general location maps in the future land use element of its comprehensive plan. Such redevelopment areas must be within an urban service area that meets the requirements of sub-subparagraph (5)(b)2.e. Each pilot project community shall also adopt comprehensive plan amendments that set forth criteria for the development of the urban placemaking areas and that contain land use and transportation strategies, including, but not limited to, the community design elements set forth in paragraph (b). A pilot project community shall undertake a process of public engagement to coordinate community vision, citizen interest, and development goals for developments within the urban placemaking redevelopment areas.*

*2. Each pilot project community may assign transportation concurrency or trip generation credits and impact fee exemptions or reductions and establish concurrency exceptions for developments that meet the adopted comprehensive plan criteria for urban placemaking redevelopment areas.*

(16) *FAIR-SHARE MITIGATION.*—It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance *that has* ~~with~~ methodologies for assessing proportionate fair-share mitigation options.

(b)~~1.~~ In its transportation concurrency management system, a local government shall~~, by December 1, 2006,~~ include methodologies *to be applied in calculating* ~~that will be applied to calculate~~ proportionate fair-share mitigation.

*1.* A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation *may* ~~shall~~ not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. *For purposes of this subsection, the term "backlogged transportation facility" means a facility on which the adopted level-of-service standard is exceeded by the existing trips plus committed trips. A developer may not be required to fund or construct proportionate-share mitigation for any backlogged transportation facility that is more extensive than mitigation necessary to offset the impact of the development project in question.*

(d) This subsection does not require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(f) If the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate-share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate-share amount in *the* ~~such~~ agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvements funded by the proportionate-share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update. The funding of any improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's impact upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

(g) Except as provided in subparagraph (b)1., this section *does* ~~may~~ not prohibit the *state land planning agency* ~~Department of Community Affairs~~ from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(h) ~~The provisions of~~ This subsection *does* ~~do~~ not apply to a development of regional impact satisfying the requirements of subsection (12).

*(i) The determination of mitigation for a subsequent phase or stage of development shall account for any mitigation required by the development order and provided by the developer for any earlier phase or stage, calculated at present value. For purposes of this subsection, the term "present value" means the fair market value of right-of-way at the time of contribution or the actual dollar value of the construction improvements contribution adjusted by the Consumer Price Index.*

*(17) TRANSPORTATION MOBILITY FEE.—The Legislature finds that the existing transportation concurrency system has not adequately addressed the state's transportation needs in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The current system is complex, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals. The state, therefore, should consider a different transportation concurrency approach that uses a mobility fee based on vehicle and people miles traveled. Therefore, the Legislature directs the state land planning agency to study and develop a methodology for a mobility fee system as follows:*

*(a) The state land planning agency, in consultation with the Department of Transportation, shall convene a study group that includes representatives from the Department of Transportation, regional planning councils, local governments, the development community, land use and transportation professionals, and the Legislature to develop a uniform mobility fee methodology for statewide application to replace the existing transportation concurrency management system. The methodology shall be based on the amount, distribution, and timing of the vehicle and people miles traveled, professionally accepted standards and practices in the fields of land use and transportation planning, and the requirements of constitutional and statutory law. The mobility fee shall be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system, and promote compact, mixed-use, and energy-efficient development. The mobility fee shall be used to fund improvements to the transportation system.*

*(b) By February 15, 2009, the state land planning agency shall provide a report to the Legislature containing recommendations concerning an appropriate uniform mobility fee methodology and whether a mobility fee system should be applied statewide or to more limited geographic areas, a schedule to amend comprehensive plans and land development rules to incorporate the mobility fee, a system for collecting and allocating mobility fees among state and local transportation facilities, and whether and how mobility fees should replace, revise, or supplement transportation impact fees.*

*(18)*~~(17)~~ A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved development-of-regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center, and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.

And the title is amended as follows:

Delete line(s) 2-92 and insert: An act relating to growth management; transferring, renumbering, and amending s. 125.379, F.S.; requiring counties to certify that they have prepared a list of county-owned property appropriate for affordable housing before obtaining certain funding; amending s. 163.3174, F.S.; prohibiting the members of the local governing body from serving on the local planning agency; providing an exception; amending s. 163.3177, F.S.; extending the date for local governments to adopt plan amendments to implement a financially feasible capital improvements element; extending the date for prohibiting future land use map amendments if a local government does not adopt and transmit its annual update to the capital improvements element; revising standards for the future land use plan in a local comprehensive plan; including a provision encouraging rural counties to adopt a rural sub-element as part of their future land use plan; revising standards for the housing element of a local comprehensive plan; requiring certain counties to certify that they have adopted a plan for ensuring affordable workforce housing before obtaining certain funding; authorizing the state land planning agency to amend administrative rules relating to planning criteria to allow for varying local conditions; deleting exemptions from the limitation on the frequency of plan amendments; extending the deadline for local governments to adopt a public school facilities element and interlocal agreement; providing legislative findings concerning the need to preserve agricultural land and protect rural agricultural communities from adverse changes in the agricultural economy; defining the term "rural agricultural industrial center"; authorizing a landowner within a rural agricultural industrial center to apply for an amendment to the comprehensive plan to expand an existing center; providing requirements for such an application; providing a rebuttable presumption that such an amendment is consistent with state rule; providing certain exceptions to the approval of such an amendment; deleting provisions encouraging local governments to develop a community vision and to designate an urban service boundary; amending s. 163.31771, F.S.; requiring a local government to amend its comprehensive plan to allow accessory dwelling units in an area zoned for single-family residential use; prohibiting such units from being treated as new units if there is a land use restriction agreement that restricts use to affordable housing; prohibiting accessory dwelling units from being located on certain land; amending s. 163.3178, F.S.; revising provisions relating to coastal management and coastal high-hazard areas; providing factors for demonstrating the compliance of a comprehensive plan amendment with rule provisions relating to coastal areas; amending s. 163.3180, F.S.; revising concurrency requirements; specifying municipal areas for transportation concurrency exception areas; revising provisions relating to the Strategic Intermodal System; deleting a requirement for local governments to annually submit a summary of de minimus records; increasing the percentage of transportation impacts that must be reserved for urban redevelopment; requiring concurrency management systems to be coordinated with the appropriate metropolitan planning organization; revising regional impact proportionate share provisions to allow for improvements outside the jurisdiction in certain circumstances; requiring the Department of Transportation to establish a transportation methodology to serve as the basis for sustainable development impact assessments; providing for the determination of mitigation to include credit for certain mitigation provided under an earlier phase, calculated at present value; defining the terms "present value" and "backlogged transportation facility"; redefining the term "construction cost"; revising the calculation of school capacity to include relocatables used by a school district; providing a minimum state availability standard for school concurrency; providing that a developer may not be required to reduce or eliminate backlog or address class size reduction; requiring charter schools to be considered as a mitigation option under certain circumstances; requiring school districts to include relocatables in their calculation of school capacity in certain circumstances; providing for an Urban Placemaking Initiative Pilot Project Program; providing for designating certain local governments as urban placemaking initiative pilot projects; providing purposes, requirements, criteria, procedures, and limitations for such local governments, the pilot projects, and the program; providing for recommendations for the establishment of a uniform mobility fee methodology to replace the current transportation concurrency management system; amending s. 163.31801, F.S.; requiring the

On motion by Senator Garcia, further consideration of **CS for CS for SB 474** with pending **Amendment 1 (842906)** was deferred.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for CS for SB 1992, with 1 amendment(s), and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

**CS for CS for CS for SB 1992**—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.0741, F.S.; redefining the term "hybrid vehicle"; authorizing the driving of a hybrid, low-emission, or energy-efficient vehicle in a high-occupancy-vehicle lane regardless of occupancy; authorizing the department to limit or discontinue such driving under certain circumstances; exempting such vehicles from the payment of certain tolls; amending s. 316.1575, F.S.; requiring a person walking or driving a vehicle to stop at a railroad crossing upon the signal of a law enforcement officer; amending s. 316.1895, F.S.; requiring the placement of signs in certain school zones stating that speeding fines are doubled within the zone; amending s. 316.191, F.S.; revising provisions prohibiting certain speed competitions and exhibitions; revising the definition of the terms "conviction," "drag race," and "race"; defining the terms "exhibition of acceleration," "exhibition of speed," and "spectator"; prohibiting driving in any race, drag race, exhibition of speed, or exhibition of acceleration; prohibiting certain acts in association with a race, drag race, exhibition of speed, or exhibition of acceleration; prohibiting being a spectator at any such race, drag race, or exhibition; providing criminal and noncriminal penalties; providing for revocation of the offender's driver's license upon conviction; providing for disposition of citation for being a spectator; providing penalties for a second or subsequent offense; providing that a violation that causes or contributes to causing serious bodily injury to another is a felony of the third degree; providing that a violation that causes or contributes to causing the death of any human being or unborn quick child is the crime of manslaughter resulting from the operation of a motor vehicle; providing penalties; providing for a determination of the definition of the term "unborn quick child"; requiring that the driving record of a person charged be provided to the court; providing criteria for arrest; providing procedures for impoundment or immobilization of a motor vehicle under a court order; providing for release from impoundment under specified exceptions; requiring that costs and fees of impoundment to be paid by the owner or lessee of the motor vehicle; providing procedures for an arresting officer to immediately impound a motor vehicle used in a violation; providing for the period of impoundment; removing a requirement for impoundment that the person being arrested is the registered owner or coowner of the motor vehicle; providing for satisfaction of the element of negligent entrustment; providing for severability; providing noncriminal penalties for the display of images or devices on a motor vehicle; creating s. 316.1926, F.S.; creating additional offenses regarding the operation of a motor vehicle; amending s. 316.193, F.S.; lowering the blood-alcohol or breath-alcohol level for which enhanced penalties are imposed against a person

who was accompanied in the vehicle by a minor at the time of the offense; clarifying that an ignition interlock device is installed for a continuous period; amending s. 316.1937, F.S.; revising the conditions under which the court may require the use of an ignition interlock device; amending s. 316.2085, F.S.; requiring an operator of a motorcycle or moped to maintain both wheels on the ground at all times; requiring that the license tag of a motorcycle or moped be affixed horizontally; amending s. 316.2397, F.S.; authorizing specified agencies to display blue lights when responding to emergencies; amending s. 316.251, F.S.; conforming a cross-reference; amending s. 316.29545, F.S.; exempting certain investigative vehicles from the prohibition against installing window sunscreening on a vehicle; amending s. 316.302, F.S.; revising the application of certain federal rules; providing for the department to perform certain duties assigned under federal rules; updating a reference to federal provisions governing out-of-service requirements for commercial vehicles; amending s. 316.3045, F.S.; providing enhanced penalties upon multiple convictions for violating prohibitions against the use of excessively loud soundmaking equipment in a motor vehicle; amending s. 316.613, F.S.; redefining the term "motor vehicle" to exclude certain trucks from the requirement to use a child restraint; amending s. 316.645, F.S.; authorizing a police officer to make an arrest upon probable cause of a violation of laws governing motor vehicle licenses; amending s. 316.650, F.S.; revising requirements for traffic citation forms; providing for the electronic transmission of citation data; amending s. 316.656, F.S.; lowering the percentage of blood or breath alcohol content relating to the prohibition against pleading guilty to a lesser offense of driving under the influence than the offense charged; amending s. 318.14, F.S.; prohibiting a person from electing more than five times within 10 years to attend a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles in lieu of making a court appearance; providing additional penalties for certain offenses involving the operation of a motorcycle or excessive speed; providing for revocation of an offender's privilege to operate a motor vehicle; creating s. 318.195, F.S.; providing enhanced penalties for moving violations that cause injury or death to a person on a motorcycle; amending s. 319.001, F.S.; defining the term "certificate of title" to include information stored electronically in the department's database; amending s. 320.0706, F.S.; providing that a violation of requirements for displaying a truck license plate is a moving violation; amending s. 320.0715, F.S.; requiring the department to withhold issuing or to suspend a registration and license plate for a commercial motor vehicle if the federal identifying number is not provided or if the motor carrier or vehicle owner has been prohibited from operating; amending s. 320.01, F.S.; redefining the term "motorcycle" to exclude a vehicle where the operator is enclosed by a cabin; amending s. 320.02, F.S., as amended; deleting the requirement for a motorcycle endorsement at the time of original registration of a motorcycle, motor-driven cycle, or moped; repealing s. 320.02(13), F.S., relating to a motor vehicle registration voluntary contribution for the Election Campaign Financing Trust Fund; repealing s. 320.08053(3), F.S., relating to provisions requiring that the department adopt rules providing certain specifications for the design of specialty license plates; amending s. 320.0894, F.S.; providing for the issuance of Gold Star license plates to certain family members; amending s. 320.27, F.S.; revising the insurance requirements for persons applying for a motor vehicle dealer license; amending s. 320.69, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to adopt rules, including definitions as necessary; creating s. 321.26, F.S.; designating the Joseph P. Bertrand Building in Fort Myers; amending s. 322.01, F.S.; defining the term "convenience service"; redefining the terms "conviction," "hazardous materials," and "out-of-service order"; amending s. 322.0255, F.S.; revising eligibility for reimbursement for organizations that conduct motorcycle safety courses; amending s. 322.03, F.S.; deleting provisions exempting certain persons from the requirement to surrender a license issued by another jurisdiction; providing certain exceptions for part-time residents; amending ss. 322.051 and 322.08, F.S.; requiring that an applicant for an identification card or driver's license provide additional information; authorizing use of additional documents to prove identity; revising the fee requirements; revising provisions providing for the expiration of an identification card issued by the department; deleting provisions authorizing a voluntary contribution; amending s. 322.14, F.S.; requiring that an applicant for a driver's license provide a residence address; amending s. 322.15, F.S.; authorizing a law enforcement officer or authorized representative of the department to collect a person's fingerprints electronically; amending s. 322.17, F.S.; revising the requirements for obtaining a replacement license or permit; deleting provisions authorizing the department to issue address stickers; amending s. 322.18, F.S.; revising provisions providing for the expiration of driver's licenses; providing for the renewal of certain licenses every 8 years and for the renewal of licenses for persons older than a specified age every 6 years; providing for the renewal of licenses using a convenience service; requiring the department to issue new licenses rather than extension stickers; conforming cross-references; repealing s. 322.181(4), F.S., relating to the Florida At-Risk Driver Council; amending s. 322.19, F.S.; deleting provisions authorizing the use of a change-of-address sticker on a driver's license; conforming cross-references; amending s. 322.21, F.S.; increasing the fees charged for obtaining a new or renewal driver's license or identification card; specifying that a portion of the fees be deposited for use by the department; amending s. 322.2715, F.S.; clarifying that an ignition interlock device is installed for a continuous period; amending s. 322.291, F.S.; imposing additional sanctions against a person who violates requirements with respect to an ignition interlock device; amending s. 322.36, F.S.; requiring the suspension for a specified period of the driver's license of a person who loans a vehicle to a person whose driver's license is suspended if that vehicle is involved in an accident resulting in bodily injury or death; repealing s. 322.60, F.S., relating to a prohibition against possessing more than one driver's license under certain circumstances; amending s. 322.61, F.S.; clarifying provisions disqualifying a person from operating a commercial motor vehicle following certain traffic violations; providing for permanent disqualification following conviction of a felony involving the manufacture, distribution, or dispensing of a controlled substance; amending s. 322.64, F.S.; providing that refusal to submit to a breath, urine, or blood test disqualifies a person from operating a commercial motor vehicle; providing a period of disqualification if a person has an unlawful blood-alcohol or breath-alcohol level; providing for issuance of a notice of disqualification; revising the requirements for a formal review hearing following a person's disqualification from operating a commercial motor vehicle; amending s. 324.021, F.S.; clarifying that a judgment becomes final by expiration of the time for appeal; amending 501.976, F.S.; conforming a cross-reference; creating the Automobile Lenders Industry Task Force within the Department of Highway Safety and Motor Vehicles; providing duties of the task force; providing for membership and the election of officers; providing for meetings; providing for reimbursement for travel and per diem expenses for public-sector members; requiring the department to provide administrative support and assistance to the task force; prohibiting the Department of Highway Safety and Motor Vehicles from issuing any new specialty license plates for a specified period; providing an exception; providing an effective date.

**House Amendment 1 (031427)(with title amendment)**—Remove everything after the enacting clause and insert:

Section 1. Section 316.0741, Florida Statutes, is amended to read:

316.0741 *High-occupancy-vehicle* ~~High occupancy vehicle~~ lanes.—

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

*(a)* "*High-occupancy-vehicle* ~~High occupancy vehicle~~ lane" or "HOV lane" means a lane of a public roadway designated for use by vehicles in which there is more than one occupant unless otherwise authorized by federal law.

*(b) "Hybrid vehicle" means a motor vehicle:*

*1. That draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy-storage system; and*

*2. That, in the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.*

(2) The number of persons that must be in a vehicle to qualify for legal use of the HOV lane and the hours during which the lane will serve as an HOV lane, if it is not designated as such on a full-time basis, must also be indicated on a traffic control device.

(3) *Except as provided in subsection (4),* a vehicle may not be driven in an HOV lane if the vehicle is occupied by fewer than the number of occupants indicated by a traffic control device. A driver who violates this section shall be cited for a moving violation, punishable as provided in chapter 318.

(4)*(a)* Notwithstanding any other provision of this section, an inherently low-emission vehicle (ILEV) that is certified and labeled in accordance with federal regulations may be driven in an HOV lane at any time, regardless of its occupancy. In addition, upon the state's receipt of written notice from the proper federal regulatory agency authorizing such use, a vehicle defined as a hybrid vehicle under this section may be driven in an HOV lane at any time, regardless of its occupancy.

*(b) All eligible hybrid and all eligible other low-emission and energy-efficient vehicles driven in an HOV lane must comply with the minimum fuel economy standards in 23 U.S.C. s. 166(f)(3)(B).*

*(c) Upon issuance of the applicable United States Environmental Protection Agency final rule pursuant to 23 U.S.C. s. 166(e), relating to the eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane, regardless of occupancy, the Department of Transportation shall review the rule and recommend to the Legislature any statutory changes necessary for compliance with the federal rule. The department shall provide its recommendations no later than 30 days following issuance of the final rule.*

*(5)* The department shall issue a decal and registration certificate, to be renewed annually, reflecting the HOV lane designation on ~~such~~ vehicles *meeting the criteria in subsection (4)* authorizing *driving in an HOV lane at any time* ~~such use~~. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or $5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund. *The department may, for reasons of operation and management of HOV facilities, limit or discontinue issuance of decals for the use of HOV facilities by hybrid and low-emission and energy-efficient vehicles, regardless of occupancy, if it has been determined by the Department of Transportation that the facilities are degraded as defined by 23 U.S.C. s. 166(d)(2).*

*(6) Vehicles having decals by virtue of compliance with the minimum fuel economy standards under 23 U.S.C. s. 166(f)(3)(B), and which are registered for use in high-occupancy toll lanes or express lanes in accordance with Department of Transportation rule, shall be allowed to use any HOV lanes redesignated as high-occupancy toll lanes or express lanes without payment of a toll.*

~~(5) As used in this section, the term "hybrid vehicle" means a motor vehicle:~~

~~(a) That draws propulsion energy from onboard sources of stored energy which are both:~~

~~1. An internal combustion or heat engine using combustible fuel; and~~

~~2. A rechargeable energy storage system; and~~

~~(b) That, in the case of a passenger automobile or light truck:~~

~~1. Has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq.; and~~

~~2. Meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.~~

*(7)*~~(6)~~ The department may adopt rules necessary to administer this section.

Section 2. Paragraph (b) of subsection (1) of section 316.1575, Florida Statutes, is amended to read:

316.1575 Obedience to traffic control devices at railroad-highway grade crossings.—

(1) Any person walking or driving a vehicle and approaching a railroad-highway grade crossing under any of the circumstances stated in this section shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely. The foregoing requirements apply when:

(b) A crossing gate is lowered *or a law enforcement officer* or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

Section 3. Effective July 1, 2008, subsection (6) of section 316.1895, Florida Statutes, is amended to read:

316.1895 Establishment of school speed zones, enforcement; designation.—

(6) Permanent signs designating school zones and school zone speed limits shall be uniform in size and color, and shall have the times during which the restrictive speed limit is enforced clearly designated thereon. Flashing beacons activated by a time clock, or other automatic device, or manually activated may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. *Beginning July 1, 2008, for any newly established school zone or any school zone in which the signing has been replaced, a sign stating "Speeding Fines Doubled" shall be installed within the school zone.* The Department of Transportation shall establish adequate standards for the signs and flashing beacons.

Section 4. Paragraph (d) is added to subsection (1) of section 316.191, Florida Statutes, subsections (3), (4), and (5) of that section are renumbered as subsections (4), (5), and (6), respectively, and a new subsection (3) is added to that section, to read:

316.191 Racing on highways.—

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

*(d) "Spectator" means any person who is knowingly present at and views a drag race, when such presence is the result of an affirmative choice to attend or participate in the race. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the racer and the individual, evidence of gambling or betting on the outcome of the race, and any other factor that would tend to show knowing attendance or participation.*

*(3)(a) A person may not be a spectator at any drag race prohibited under subsection (2).*

*(b) A person who violates the provisions of paragraph (a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 5. Subsection (4) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of *0.15* ~~0.20~~ or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than $500 or more than $1,000 for a first conviction.

2. Not less than $1,000 or more than $2,000 for a second conviction.

3. Not less than $2,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of *0.15* ~~0.20~~ or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for *not less than* ~~up to~~ 6 *continuous* months for the first offense and for *not less than* ~~at least~~ 2 *continuous* years for a second offense, when the convicted person qualifies for a permanent or restricted license. ~~The installation of such device may not occur before July 1, 2003.~~

Section 6. Subsection (1) of section 316.1937, Florida Statutes, is amended to read:

316.1937 Ignition interlock devices, requiring; unlawful acts.—

(1) In addition to any other authorized penalties, the court may require that any person who is convicted of driving under the influence in violation of s. 316.193 shall not operate a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device certified by the department as provided in s. 316.1938, and installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. The court may require the use of an approved ignition interlock device for a period of not less than 6 *continuous* months, if the person is permitted to operate a motor vehicle, whether or not the privilege to operate a motor vehicle is restricted, as determined by the court. The court, however, shall order placement of an ignition interlock device in those circumstances required by s. 316.193.

Section 7. Subsection (2) of section 316.251, Florida Statutes, is amended to read:

316.251 Maximum bumper heights.—

(2) "New motor vehicles" as defined in s. 319.001*(9)*~~(8)~~, "antique automobiles" as defined in s. 320.08, "horseless carriages" as defined in s. 320.086, and "street rods" as defined in s. 320.0863 shall be excluded from the requirements of this section.

Section 8. Paragraph (b) of subsection (1) and subsections (6) and (8) of section 316.302, Florida Statutes, are 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, *2007* ~~2005~~.

(6) The state Department of Transportation shall perform the duties that are assigned to the *Field Administrator, Federal Motor Carrier Safety Administration* ~~Regional Federal Highway Administrator~~ under the federal rules, and an agent of that department, as described in s. 316.545(9), may enforce those rules.

(8) For the purpose of enforcing this section, any law enforcement officer of the Department of Transportation or duly appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any commercial vehicle operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle or driver is found to be operating in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would present an unduly hazardous operating condition, the officer may require the vehicle or the driver to be removed from service pursuant to the North American *Standard* ~~Uniform~~ Out-of-Service Criteria, until corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer may give written notice requiring correction of the condition within 14 days.

(a) Any member of the Florida Highway Patrol or any law enforcement officer employed by a sheriff's office or municipal police department authorized to enforce the traffic laws of this state pursuant to s. 316.640 who has reason to believe that a vehicle or driver is operating in an unsafe condition may, as provided in subsection (10), enforce the provisions of this section.

(b) Any person who fails to comply with an officer's request to submit to an inspection under this subsection commits a violation of s. 843.02 if the person resists the officer without violence or a violation of s. 843.01 if the person resists the officer with violence.

Section 9. Subsection (2) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

(a) A school bus as defined in s. 316.003(45).

(b) A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1) (b), or in conjunction with school activities.

(c) A farm tractor or implement of husbandry.

(d) A truck *having a gross vehicle weight rating of more than 26,000* ~~of net weight of more than 5,000~~ pounds.

(e) A motorcycle, moped, or bicycle.

Section 10. Paragraph (a) of subsection (3) of section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(3) As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 *which* ~~that~~ is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.

3. A farm tractor or implement of husbandry.

4. A truck *having a gross vehicle weight rating of more than 26,000* ~~of a net weight of more than 5,000~~ pounds.

5. A motorcycle, moped, or bicycle.

Section 11. Section 316.645, Florida Statutes, is amended to read:

316.645 Arrest authority of officer at scene of a traffic crash.—A police officer who makes an investigation at the scene of a traffic crash may arrest any driver of a vehicle involved in the crash when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this chapter*, chapter 320,* or chapter 322 in connection with the crash.

Section 12. Subsections (1), (3), (4), (5), (6), and (7) of section 316.650, Florida Statutes, are amended to read:

316.650 Traffic citations.—

(1)(a) The department shall prepare~~,~~ and supply to every traffic enforcement agency in this state~~,~~ an appropriate form traffic citation *that contains* ~~containing~~ a notice to appear*, is* ~~(which shall be~~ issued in prenumbered books*, meets* ~~with citations in quintuplicate) and meeting~~ the requirements of this chapter or any laws of this state regulating traffic, *and is* ~~which form shall be~~ consistent with the state traffic court rules and the procedures established by the department. The form shall include a box *that* ~~which~~ is to be checked by the law enforcement officer when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923. The form shall also include a box *that* ~~which~~ is to be checked by the law enforcement officer when the officer writes a uniform traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. as a result of the driver failing to stop at a traffic signal.

(b) The department shall prepare, and supply to every traffic enforcement agency in the state, an appropriate affidavit-of-compliance form *that* ~~which~~ shall be issued along with the form traffic citation for any violation of s. 316.610 and *that indicates* ~~which shall indicate~~ the specific defect *needing* ~~which needs~~ to be corrected. However, such affidavit of compliance shall not be issued in the case of a violation of s. 316.610 by a commercial motor vehicle as defined in s. 316.003(66). Such affidavit-of-compliance form shall be distributed in the same manner and to the same parties as is the form traffic citation.

(c) Notwithstanding paragraphs (a) and (b), a traffic enforcement agency may produce uniform traffic citations by electronic means. Such

citations must be consistent with the state traffic court rules and the procedures established by the department *and*~~;~~ must be appropriately numbered and inventoried~~; and may have fewer copies than the quintuplicate form~~. Affidavit-of-compliance forms may also be produced by electronic means.

(d) The department must distribute to every traffic enforcement agency and to any others who request it, a traffic infraction reference guide describing the class of the traffic infraction, the penalty for the infraction, the points to be assessed on a driver's *record* ~~license~~, and any other information necessary to describe a violation and the penalties therefor.

(3)(a) Except for a traffic citation issued pursuant to s. 316.1001, each traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any *municipality* ~~city~~ or town, shall deposit the original ~~and one copy of such~~ traffic citation or, in the case of a traffic enforcement agency *that* ~~which~~ has an automated citation issuance system, *the chief administrative officer* shall provide *by* an electronic *transmission a replica of the citation data to* ~~facsimile with~~ a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator.

(b) If a traffic citation is issued pursuant to s. 316.1001, a traffic enforcement officer may deposit the original ~~and one copy of such~~ traffic citation or, in the case of a traffic enforcement agency that has an automated citation system, may provide *by* an electronic *transmission a replica of the citation data to* ~~facsimile with~~ a court having jurisdiction over the alleged offense or with its traffic violations bureau within 45 days after the date of issuance of the citation to the violator. If the person cited for the violation of s. 316.1001 makes the election provided by s. 318.14(12) and pays the $25 fine, or such other amount as imposed by the governmental entity owning the applicable toll facility, plus the amount of the unpaid toll that is shown on the traffic citation directly to the governmental entity that issued the citation, or on whose behalf the citation was issued, in accordance with s. 318.14(12), the traffic citation will not be submitted to the court, the disposition will be reported to the department by the governmental entity that issued the citation, or on whose behalf the citation was issued, and no points will be assessed against the person's driver's license.

(4) The chief administrative officer of every traffic enforcement agency shall require the return to him or her ~~of~~ the *officer-agency* ~~department record~~ copy of every traffic citation issued by an officer under the chief administrative officer's supervision to an alleged violator of any traffic law or ordinance and ~~of~~ all copies of every traffic citation *that* ~~which~~ has been spoiled or upon which any entry has been made and not issued to an alleged violator. In the case of a traffic enforcement agency *that* ~~which~~ has an automated citation issuance system, the chief administrative officer shall require the return of all electronic traffic citation records.

(5) Upon the deposit of the original ~~and one copy of such~~ traffic citation or upon ~~deposit of~~ an electronic *transmission of a replica of citation data* ~~facsimile~~ of the traffic citation with respect to traffic enforcement agencies *that* ~~which~~ have an automated citation issuance system with a court having jurisdiction over the alleged offense or with its traffic violations bureau ~~as aforesaid~~, the original *citation*, *the electronic citation containing a replica of citation data* ~~facsimile~~, or *a* copy of such traffic citation may be disposed of only by trial in the court or other official action by a judge of the court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom such traffic citation has been issued by the traffic enforcement officer.

(6) The chief administrative officer shall transmit, on a form approved by the department, ~~the department record copy of the uniform traffic citation to the department~~ within 5 days after submission of the original*, groups of issued citations* ~~and one copy to the court, or citation~~ and transmittal data *to the court. Batches of electronic citations containing a replica of citation data* may be transmitted to the *court* ~~department~~ in an *electronic* ~~automated~~ fashion, in a *format* ~~form~~ prescribed by the department *within 5 days after issuance to the violator*. ~~A copy of such transmittal shall also be provided to the court having jurisdiction for accountability purposes.~~

(7) The chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his or her supervision a record of the disposition of the charge by the court or its traffic violations bureau in which the original or copy of the traffic citation *or electronic citation* was deposited.

Section 13. Paragraph (a) of subsection (2) of section 316.656, Florida Statutes, is amended to read:

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(2)(a) No trial judge may accept a plea of guilty to a lesser offense from a person charged under the provisions of this act who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of *0.15* ~~0.20~~ percent or more.

Section 14. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(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. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, 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 *within 10 years* 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.

Section 15. Subsections (1) through (11) of section 319.001, Florida Statutes, are renumbered as subsections (2) through (12), respectively, and a new subsection (1) is added to that section to read:

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

*(1) "Certificate of title" means the record that is evidence of ownership of a vehicle, whether a paper certificate authorized by the department or a certificate consisting of information that is stored in an electronic form in the department's database.*

Section 16. Subsection (27) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(27) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor*,* ~~or~~ a moped*, or a vehicle in which the operator is enclosed by a cabin*.

Section 17. Effective July 1, 2008, subsection (1) of section 320.02, Florida Statutes, as amended by section 28 of chapter 2006-290, Laws of Florida, is amended to read:

320.02 Registration required; application for registration; forms.—

(1) Except as otherwise provided in this chapter, every owner or person in charge of a motor vehicle that is operated or driven on the roads of this state shall register the vehicle in this state. The owner or person in charge shall apply to the department or to its authorized agent for registration of each such vehicle on a form prescribed by the department. ~~Prior to the original registration of a motorcycle, motor-driven cycle, or moped, the owner, if a natural person, must present proof that he or she has a valid motorcycle endorsement as required in chapter 322.~~ A registration is not required for any motor vehicle that is not operated on the roads of this state during the registration period.

Section 18. *Subsection (13) of section 320.02, Florida Statutes, is repealed.*

Section 19. Section 320.0706, Florida Statutes, is amended to read:

320.0706 Display of license plates on trucks.—The owner of any commercial truck of gross vehicle weight of 26,001 pounds or more shall display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605 that do not conflict with this section. The owner of a dump truck may place the rear license plate on the gate no higher than 60 inches to allow for better visibility. However, the owner of a truck tractor shall be required to display the registration license plate only on the front of such vehicle. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 20. Subsection (4) of section 320.0715, Florida Statutes, is amended to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(4) Each motor carrier registered under the International Registration Plan shall maintain and keep, for a period of 4 years, pertinent records and papers as may be required by the department for the reasonable administration of this chapter.

*(a) The department shall withhold registrations and license plates for commercial motor vehicles unless the identifying number issued by the federal agency responsible for motor carrier safety is provided for the motor carrier and the entity responsible for motor carrier safety for each motor vehicle as part of the application process.*

*(b) The department may not issue a commercial motor vehicle registration or license plate to, and may not transfer the commercial motor vehicle registration or license plate for, a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.*

*(c) The department, with notice, shall suspend any commercial motor vehicle registration and license plate issued to a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.*

Section 21. Subsection (3) of section 320.08053, Florida Statutes, is amended to read:

320.08053 Requirements for requests to establish specialty license plates.—

~~(3) The department shall adopt rules providing viewpoint-neutral specifications for the design of specialty license plates that promote or enhance the readability of all specialty license plates and that discourage counterfeiting. The rules shall provide uniform specifications requiring inclusion of the word "Florida" in the same location on each specialty license plate, in such a size and location that is clearly identifiable on the specialty license plate when mounted on a vehicle, and shall provide specifications for the size and location of any words or logos appearing on a specialty license plate.~~

Section 22. Paragraph (a) of subsection (4) of section 320.0894, Florida Statutes, is amended to read:

320.0894 Motor vehicle license plates to Gold Star family members.—The department shall develop a special license plate honoring the family members of servicemembers who have been killed while serving in the Armed Forces of the United States. The license plate shall be officially designated as the Gold Star license plate and shall be developed and issued as provided in this section.

(4)(a)1.*a.* The Gold Star license plate shall be issued only to family members of a servicemember who resided in Florida at the time of the death of the servicemember.

*b. Any family member, as defined in subparagraph 2., of a servicemember killed while serving may be issued a Gold Star license plate upon payment of the license tax and appropriate fees as provided in paragraph (3)(a) without regard to the state of residence of the servicemember.*

2. To qualify for issuance of a Gold Star license plate, the applicant must be directly related to a fallen servicemember as spouse, legal mother or father, or stepparent who is currently married to the mother or father of the fallen servicemember.

3. A servicemember is deemed to have been killed while in service as listed by the United States Department of Defense and may be verified from documentation directly from the Department of Defense or from its subordinate agencies, such as the Coast Guard, Reserve, or National Guard.

Section 23. Effective upon this act becoming a law, subsections (4) and (8) of section 320.131, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

320.131 Temporary tags.—

(4)*(a)* Temporary tags shall be conspicuously displayed in the rear license plate bracket or*,* ~~attached to the inside of the rear window in an upright position so as to be clearly visible from the rear of the vehicle.~~ on vehicles requiring front display of license plates, ~~temporary tags shall be displayed~~ on the front of the vehicle in the location where the metal license plate would normally be displayed.

*(b) The department shall designate specifications for the media upon which the temporary tag is printed. Such media shall be either nonpermeable or subject to weatherproofing so that it maintains its structural integrity, including graphic and data adhesion, in all weather conditions after being placed on a vehicle.*

(8) The department *shall* ~~may~~ administer an electronic system for licensed motor vehicle dealers to use *for* ~~in~~ issuing temporary *tags* ~~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 *tags* ~~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.

*(9)(a) The department shall implement a secure print-on-demand electronic temporary tag registration, record retention, and issue system required for use by every department-authorized issuer of temporary tags by the end of the 2007-2008 fiscal year. Such system shall enable the department to issue, on demand, a temporary tag number in response to a request from the issuer by way of a secure electronic exchange of data and enable the issuer to print the temporary tag that has all required information. A motor vehicle dealer licensed under this chapter may charge a fee to comply with this subsection.*

*(b) To ensure the continuation of operations for issuers if a system outage occurs, the department shall allow the limited use of a backup manual issuance method during an outage which requires recordkeeping of information as determined by the department and requires the timely electronic reporting of this information to the department.*

*(c) The department may adopt rules necessary to administer this subsection. Such rules may include exemptions from the requirements of this subsection as required to administer the program, as well as exemptions for issuers who do not require a dealer license under this chapter because of the type or size of vehicle being sold.*

Section 24. Subsection (3) and paragraph (b) of subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(3) APPLICATION AND FEE.—The application for the license shall be in such form as may be prescribed by the department and shall be subject to such rules with respect thereto as may be so prescribed by it. Such application shall be verified by oath or affirmation and shall contain a full statement of the name and birth date of the person or persons applying therefor; the name of the firm or copartnership, with the names and places of residence of all members thereof, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or places of residence of the applicant; and prior business in which the applicant has been engaged and the location

thereof. Such application shall describe the exact location of the place of business and shall state whether the place of business is owned by the applicant and when acquired, or, if leased, a true copy of the lease shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business which shall be conducted at that location. Such application shall contain a statement that the applicant is either franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell shall be included, or an independent (nonfranchised) motor vehicle dealer. Such application shall contain such other relevant information as may be required by the department, including evidence that the applicant is insured under a garage liability insurance policy *or a general liability insurance policy coupled with a business automobile policy*, which shall include, at a minimum, $25,000 combined single-limit liability coverage including bodily injury and property damage protection and $10,000 personal injury protection. *Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.* Such policy shall be for the license period, and evidence of a new or continued policy shall be delivered to the department at the beginning of each license period. Upon making ~~such~~ initial application, the *applicant* ~~person applying therefor~~ shall pay to the department a fee of $300 in addition to any other fees now required by law; upon making a subsequent renewal application, the *applicant* ~~person applying therefor~~ shall pay to the department a fee of $75 in addition to any other fees now required by law. Upon making an application for a change of location, the person shall pay a fee of $50 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of ~~such~~ state and federal processing shall be borne by the applicant and is ~~to be~~ in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

(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.

18. Failure to maintain evidence of notification to the owner or coowner of a vehicle regarding registration or titling fees owed as required in s. 320.02*(16)*~~(17)~~.

19. Failure to register a mobile home salesperson with the department as required by this section.

Section 25. *Section 320.96, Florida Statutes, is repealed.*

Section 26. Subsections (10) through (44) of section 322.01, Florida Statutes, are renumbered as subsections (11) through (45), respectively, present subsections (10), (23), and (29) are amended, and a new subsection (10) is added to that section, to read:

322.01 Definitions.—As used in this chapter:

*(10) "Convenience service" means any means whereby an individual conducts a transaction with the department other than in person.*

*(11)*~~(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 *or by a person holding a commercial driver's license*.

*(24)*~~(23)~~ "Hazardous materials" *means any material that has been designated as hazardous under 49 U.S.C. s. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73* ~~has the meaning such term has under s. 103 of the Hazardous Materials Transportation Act~~.

*(30)*~~(29)~~ "Out-of-service order" means a prohibition issued by an authorized local, state, or Federal Government official which precludes a person from driving a commercial motor vehicle ~~for a period of 72 hours or less~~.

Section 27. Subsections (1) and (2) of section 322.051, Florida Statutes, are amended to read:

322.051 Identification cards.—

(1) Any person who is 5 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, *proof of* social security card number *satisfactory to the department*, county of residence*,* ~~and~~ mailing address, *proof of residential address satisfactory to the department,* 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., sub-subparagraph f., ~~or~~ sub-subparagraph g.*, or sub-subparagraph h.*;

b. A certified copy of a United States birth certificate;

c. A *valid, unexpired* United States passport;

d. A naturalization certificate issued by the United States Department of Homeland Security;

e. *A valid, unexpired* ~~An~~ alien registration receipt card (green card);

*f. A Consular Report of Birth Abroad provided by the United States Department of State;*

*g.*~~f.~~ An *unexpired* employment authorization card issued by the United States Department of Homeland Security; or

*h.*~~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 or refugee 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.

(VII) Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.

*(VIII) On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.*

Presentation of any of the documents described in sub-subparagraph *g.* ~~f.~~ or sub-subparagraph *h.* ~~g.~~ entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or 1 year, whichever first occurs.

(b) An application for an identification card must be signed and verified by the applicant in a format designated by the department before a person authorized to administer oaths *and payment of the applicable fee pursuant to s. 322.21.* ~~The fee for an identification card is $3, including payment for the color photograph or digital image of the applicant.~~

(c) Each such applicant may include fingerprints and any other unique biometric means of identity.

(2)(a) Every identification card*:*

*1. Issued to a person 5 years of age to 14 years of age* shall expire, unless canceled earlier, on the fourth birthday of the applicant following the date of original issue.

*2. Issued to a person 15 years of age and older shall expire, unless canceled earlier, on the eighth birthday of the applicant following the date of original issue.*

*Renewal of an identification card shall be made for the applicable term enumerated in this paragraph.* ~~However, if an individual is 60 years of age or older, and has an identification card issued under this section, the card shall not expire unless done so by cancellation by the department or by the death of the cardholder. Renewal of any identification card shall be made for a term which shall expire on the fourth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier.~~ Any application for renewal received later than 90 days after expiration of the identification card shall be considered the same as an application for an original identification card. ~~The renewal fee for an identification card shall be $10, of which $4 shall be deposited into the General Revenue Fund and $6 into the Highway Safety Operating Trust Fund. The department shall, at the end of 4 years and 6 months after the issuance or renewal of an identification card, destroy any record of the card if it has expired and has not been renewed, unless the cardholder is 60 years of age or older.~~

(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., the identification card shall expire on the *eighth* ~~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.g.* ~~(1)(a)3.f.~~ or sub-subparagraph *(1)(a)3.h.* ~~(1)(a)3.g.~~, the identification card

shall expire *1 year* ~~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.

Section 28. Subsections (1), (2), and (6) of section 322.08, Florida Statutes, are amended to read:

322.08 Application for license.—

(1) Each application for a driver's license shall be made in a format designated by the department and sworn to or affirmed by the applicant as to the truth of the statements made in the application.

(2) Each such application shall include the following information regarding the applicant:

(a) Full name (first, middle or maiden, and last), gender, *proof of* social security card number *satisfactory to the department*, county of residence*,* ~~and~~ mailing address, *proof of residential address satisfactory to the department,* 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., subparagraph 6., ~~or~~ subparagraph 7.*, or subparagraph 8.*;

2. A certified copy of a United States birth certificate;

3. A *valid, unexpired* United States passport;

4. A naturalization certificate issued by the United States Department of Homeland Security;

5. *A valid, unexpired* ~~An~~ alien registration receipt card (green card);

*6. A Consular Report of Birth Abroad provided by the United States Department of State;*

*7.*~~6.~~ An *unexpired* employment authorization card issued by the United States Department of Homeland Security; or

*8.*~~7.~~ 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 Bureau of Citizenship and Immigration Services.

d. Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.

e. A notice of action transferring any pending matter from another jurisdiction to this state issued by the United States Bureau of Citizenship and Immigration Services.

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.

g. Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.

*h. On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.*

Presentation of any of the documents in subparagraph *7.* ~~6.~~ or subparagraph *8.* ~~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 1 year, 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.

(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.~~

*(a)*~~(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.

*(b)*~~(c)~~ A voluntary contribution of $1 per applicant, which contribution shall be distributed to the Florida Council of the Blind.

*(c)*~~(d)~~ A voluntary contribution of $2 per applicant, which shall be distributed to the Hearing Research Institute, Incorporated.

*(d)*~~(e)~~ A voluntary contribution of $1 per applicant, which shall be distributed to the Juvenile Diabetes Foundation International.

*(e)*~~(f)~~ A voluntary contribution of $1 per applicant, which shall be distributed to the Children's Hearing Help Fund.

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 *(b), (c), (d), and (e)* ~~(c), (d), (e), and (f)~~ and under s. 322.18(9)(a) are not income of a revenue nature.

Section 29. Paragraph (a) of subsection (1) of section 322.14, Florida Statutes, is amended to read:

322.14 Licenses issued to drivers.—

(1)(a) The department shall, upon successful completion of all required examinations and payment of the required fee, issue to every applicant qualifying therefor, a driver's license as applied for, which license shall bear thereon a color photograph or digital image of the licensee; the name of the state; a distinguishing number assigned to the licensee; and the licensee's full name, date of birth, and *residence* ~~mailing~~ address; a brief description of the licensee, including, but not limited to, the licensee's gender and height; and the dates of issuance and expiration of the license. A space shall be provided upon which the licensee shall affix his or her usual signature. No license shall be valid until it has been so signed by the licensee except that the signature of said licensee shall not be required if it appears thereon in facsimile or if the licensee is not present within the state at the time of issuance. Applicants qualifying to receive a Class A, Class B, or Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license pursuant to s. 322.142.

Section 30. Section 322.15, Florida Statutes, is amended to read:

322.15 License to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.—

(1) Every licensee shall have his or her driver's license, which must be fully legible with no portion of such license faded, altered, mutilated, or defaced, in his or her immediate possession at all times when operating a motor vehicle and shall display the same upon the demand of a law enforcement officer or an authorized representative of the department.

(2) Upon the failure of any person to display a driver's license as required by subsection (1), the law enforcement officer or authorized representative of the department stopping the person shall require the person to imprint his or her *fingerprints* ~~fingerprint~~ upon any citation issued by the officer or authorized representative*, or the officer or authorized representative shall collect the fingerprints electronically*.

(3) In relation to violations of subsection (1) or s. 322.03(5), persons who cannot supply proof of a valid driver's license for the reason that the license was suspended for failure to comply with that citation shall be issued a suspension clearance by the clerk of the court for that citation upon payment of the applicable penalty and fee for that citation. If proof of a valid driver's license is not provided to the clerk of the court within 30 days, the person's driver's license shall again be suspended for failure to comply.

(4) A violation of subsection (1) is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 31. Section 322.17, Florida Statutes, is amended to read:

322.17 *Replacement licenses and permits* ~~Duplicate and replacement certificates.—~~

(1)(a) In the event that an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed, the person to whom the same was issued may, upon payment of *the appropriate fee pursuant to s. 322.21* ~~$10~~, obtain a *replacement* ~~duplicate, or substitute thereof,~~ upon furnishing proof satisfactory to the department that such permit or license has been lost or destroyed, and further furnishing the full name, date of birth, sex, residence and mailing address, proof of birth satisfactory to the department, and proof of identity satisfactory to the department. ~~Five dollars of the fee levied in this paragraph shall go to the Highway Safety Operating Trust Fund of the department.~~

(b) In the event that an instruction permit or driver's license issued under the provisions of this chapter is stolen, the person to whom the same was issued may, at no charge, obtain a *replacement* ~~duplicate, or substitute thereof,~~ upon furnishing proof satisfactory to the department that such permit or license was stolen and further furnishing the full name, date of birth, sex, residence and mailing address, proof of birth satisfactory to the department, and proof of identity satisfactory to the department.

(2) Upon the surrender of the original license and the payment of *the appropriate fees pursuant to s. 322.21* ~~a $10 replacement fee~~, the department shall issue a replacement license to make a change in name, address, or restrictions. ~~Upon written request by the licensee and notification of a change in address, and the payment of a $10 fee, the department shall issue an address sticker which shall be affixed to the back of the license by the licensee. Nine dollars of the fee levied in this subsection shall go to the Highway Safety Operating Trust Fund of the department.~~

(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)*7.*~~6.~~ or *8.*~~7.~~, 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)*7.*~~6.~~ or *8.*~~7.~~

Section 32. Subsections (2), (4), (5), (8), and (9) 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 *who has not attained 80 years of age* applying for an original issuance shall be issued a driver's license *that* ~~which~~ expires at midnight on the licensee's birthday which next occurs on or after the *eighth* ~~sixth~~ anniversary of the date of issue. *An applicant who is at least 80 years of age applying for an original issuance shall be issued a driver's license that expires at midnight on the licensee's birthday that next occurs on or after the sixth anniversary of the date of issue.*

(b) An applicant *who has not attained 80 years of age* applying for a renewal issuance ~~or renewal extension~~ shall be issued a driver's license *that* ~~or renewal extension sticker which~~ expires at midnight on the licensee's birthday *that* ~~which~~ next occurs *8* 4 years after the month of expiration of the license being renewed . *An applicant who is at least 80 years of age applying for a renewal issuance shall be issued a driver's license that*~~, 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 *that* ~~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., 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 an applicant establishes his or her identity for a driver's license using a document authorized in s. 322.08(2)(c)*7.*~~6.~~ or *8.*~~7.~~, the driver's license shall expire *1 year* ~~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.

(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 *8* 4 years ~~or 6 years, depending upon the terms of issuance~~ and shall be issued or *renewed* ~~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., the license, 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)*7.*~~6.~~ or *8.*~~7.~~, 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)*7.*~~6.~~ or *8.*~~7.~~ A driver's license renewed under this paragraph expires *1 year* ~~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.

(5) All renewal driver's licenses may be issued after the applicant licensee has been determined to be eligible by the department.

(a) A licensee who is otherwise eligible for renewal and who is *at least 80* ~~over 79~~ years of age:

1. Must submit to and pass a vision test administered at any driver's license office; or

2. If the licensee applies for *a renewal using a convenience service* ~~an extension by mail~~ as provided in subsection (8), *he or she* must submit to a vision test administered by a physician licensed under chapter 458 or chapter 459, or an optometrist licensed under chapter 463, must send the results of that test to the department on a form obtained from the department and signed by such health care practitioner, and must meet vision standards that are equivalent to the standards for passing the departmental vision test. The physician or optometrist may submit the results of a vision test by a department-approved electronic means.

(b) A licensee who is *at least 80* ~~over 79~~ years of age may not submit an application for *renewal* ~~extension~~ under subsection (8) by *a convenience service* ~~electronic or telephonic means,~~ unless the results of a vision

test have been electronically submitted in advance by the physician or optometrist.

(8) The department shall issue *8-year renewals using a convenience service* ~~4-year and 6-year license extensions by mail, electronic, or telephonic means~~ without reexamination *to drivers who have not attained 80 years of age. The department shall issue 6-year renewals using a convenience service when the applicant has satisfied the requirements of subsection (5).*

(a) If the department determines from its records that the holder of a license about to expire is eligible for renewal, the department shall mail a renewal notice to the licensee at his or her last known address, not less than 30 days prior to the licensee's birthday. The renewal notice shall direct the licensee to appear at a driver license office for in-person renewal or to transmit the completed renewal notice and the fees required by s. 322.21 to the department *using a convenience service* ~~by mail, electronically, or telephonically within the 30 days preceding the licensee's birthday for a license extension. License extensions shall not be available to drivers directed to appear for in-person renewal.~~

(b) Upon receipt of a properly completed renewal notice, payment of the required fees, and upon determining that the licensee is still eligible for renewal, the department shall send a *new* license ~~extension sticker~~ to the licensee ~~to affix to the expiring license~~ as evidence that the license term has been extended.

(c) The department shall issue *one renewal using a convenience service* ~~license extensions for two consecutive license expirations only. Upon expiration of two consecutive license extension periods, in-person renewal with reexamination as provided in s. 322.121 shall be required~~ . A person who is out of this state when his or her license expires may be issued a 90-day temporary driving permit without reexamination. At the end of the 90-day period, the person must either return to this state or apply for a license where the person is located, except for a member of the Armed Forces as provided in s. 322.121(6).

~~(d) In-person renewal at a driver license office shall not be available to drivers whose records indicate they were directed to apply for a license extension.~~

*(d)*~~(e)~~ Any person who knowingly possesses any forged, stolen, fictitious, counterfeit, or unlawfully issued license extension sticker, unless possession by such person has been duly authorized by the department, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

*(e)*~~(f)~~ The department shall develop a plan for the equitable distribution of license ~~extensions and~~ renewals and the orderly implementation of this section.

(9)(a) The application form for a renewal issuance ~~or renewal extension~~ shall include language permitting a voluntary contribution of $1 per applicant, to be quarterly distributed by the department to Prevent Blindness Florida, a not-for-profit organization, to prevent blindness and preserve the sight of the residents of this state. A statement providing an explanation of the purpose of the funds shall be included with the application form.

(b) Prior to the department distributing the funds collected pursuant to paragraph (a), Prevent Blindness Florida must submit a report to the department that identifies how such funds were used during the preceding year.

Section 33. *Subsection (4) of section 322.181, Florida Statutes, is repealed.*

Section 34. Subsections (2) and (4) of section 322.19, Florida Statutes, are amended to read:

322.19 Change of address or name.—

(2) Whenever any person, after applying for or receiving a driver's license, changes the residence or mailing address in the application or license, the person must, within 10 calendar days, ~~either~~ obtain a replacement license that reflects the change ~~or request in writing a change-of-address sticker~~. *A* ~~The~~ written request to the department must include the old and new addresses and the driver's license number.

(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)*7.*~~6.~~ or *8.*~~7.~~, 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)*7.*~~6.~~ or *8.*~~7.~~

Section 35. 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 *$67* ~~$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 E driver's license is *$27* ~~$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 E driver's license or of a license restricted to motorcycle use only is *$20* ~~$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 *$27* ~~$20~~, which shall include the fee for driver's education provided by s. 1003.48.

*(e) A replacement driver's license issued pursuant to s. 322.17 is $10. Of this amount $7 shall be deposited into the Highway Safety Operating Trust Fund and $3 shall be deposited into the General Revenue Fund.*

*(f) An original, renewal, or replacement identification card issued pursuant to s. 322.051 is $10. Funds collected from these fees shall be distributed as follows:*

*1. For an original identification card issued pursuant to s. 322.051 the fee shall be $10. This amount shall be deposited into the General Revenue Fund.*

*2. For a renewal identification card issued pursuant to s. 322.051 the fee shall be $10. Of this amount, $6 shall be deposited into the Highway Safety Operating Trust Fund and $4 shall be deposited into the General Revenue Fund.*

*3. For a replacement identification card issued pursuant to s. 322.051 the fee shall be $10. Of this amount, $9 shall be deposited into the Highway Safety Operating Trust Fund and $1 shall be deposited into the General Revenue Fund.*

*(g)*~~(e)~~ Each endorsement required by s. 322.57 is *$7* ~~$5~~.

*(h)*~~(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 36. Subsection (3) of section 322.2715, Florida Statutes is amended to read:

322.2715 Ignition interlock device.—

(3) If the person is convicted of:

(a) A first offense of driving under the influence under s. 316.193 and has an unlawful blood-alcohol level or breath-alcohol level as specified in s. 316.193(4), or if a person is convicted of a violation of s. 316.193 and was at the time of the offense accompanied in the vehicle by a person younger than 18 years of age, the person shall have the ignition interlock device installed for *not less than* 6 *continuous* months for the first offense and for *not less than* ~~at least~~ 2 *continuous* years for a second offense.

(b) A second offense of driving under the influence, the ignition interlock device shall be installed for a period of not less than 1 *continuous* year.

(c) A third offense of driving under the influence which occurs within 10 years after a prior conviction for a violation of s.316.193, the ignition interlock device shall be installed for a period of not less than 2 *continuous* years.

(d) A third offense of driving under the influence which occurs more than 10 years after the date of a prior conviction, the ignition interlock device shall be installed for a period of not less than 2 *continuous* years.

Section 37. Section 322.291, Florida Statutes is amended to read:

322.291 Driver improvement schools or DUI programs; required in certain suspension and revocation cases.—Except as provided in s. 322.03(2), any person:

(1) Whose driving privilege has been revoked:

(a) Upon conviction for:

1. Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, in violation of s. 316.193;

2. Driving with an unlawful blood- or breath-alcohol level;

3. Manslaughter resulting from the operation of a motor vehicle;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle crash resulting in the death or personal injury of another;

5. Reckless driving; or

(b) As *a* ~~an~~ habitual offender;

(c) Upon direction of the court, if the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the revocation of the licensee's driving privilege; or

(2) Whose license was suspended under the point system, was suspended for driving with an unlawful blood-alcohol level of 0.10 percent or higher before January 1, 1994, was suspended for driving with an unlawful blood-alcohol level of 0.08 percent or higher after December 31, 1993, was suspended for a violation of s. 316.193(1), or was suspended for refusing to submit to a lawful breath, blood, or urine test as provided in s. 322.2615

shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course operating pursuant to s. 318.1451 or a substance abuse education course conducted by a DUI program licensed pursuant to s. 322.292, which shall include a psychosocial evaluation and treatment, if referred. *Additionally, for a third or subsequent violation of requirements for installation of an ignition interlock device, a person must complete treatment as determined by a licensed treatment agency following a referral by a DUI program and have the duration of the ignition interlock device requirement extended by at least 1 month up to the time period required to complete treatment.* If the person fails to complete such course or evaluation within 90 days after reinstatement, or subsequently fails to complete treatment, if referred, the DUI program shall notify the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the expiration of the suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege upon verification from the DUI program that the offender has completed the education course and evaluation requirement and has reentered and is currently participating in treatment. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program.

Section 38. Section 322.36, Florida Statutes, is amended to read:

322.36 Permitting unauthorized operator to drive.—*A* ~~No~~ person *may not* ~~shall~~ authorize or knowingly permit a motor vehicle owned by him or her or under his or her dominion or control to be operated upon any highway or public street except by *a person who is* ~~persons~~ duly authorized to operate *a* motor *vehicle* ~~vehicles~~ under ~~the provisions of~~ this chapter. Any person *who violates* ~~violating~~ this *section commits* ~~provision is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. *If a person violates this section by knowingly loaning a vehicle to a person whose driver's license is suspended and if that vehicle is involved in an accident resulting in bodily injury or death, the driver's license of the person violating this section shall be suspended for 1 year.*

Section 39. *Section 322.60, Florida Statutes, is repealed.*

Section 40. Subsections (1) through (6) 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 *holder of a commercial driver's license* ~~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;

(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 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 appear 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 *holder of a commercial driver's license* ~~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)*(a)* Except as provided in subsection (4), any person who is convicted of one of the ~~following~~ offenses *listed in paragraph (b) while operating a commercial motor vehicle* shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

*(b) Except as provided in subsection (4), any holder of a commercial driver's license who is convicted of one of the offenses listed in this paragraph while operating a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:*

*1.*~~(a)~~ Driving a ~~commercial~~ motor vehicle while he or she is under the influence of alcohol or a controlled substance;

*2.*~~(b)~~ Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

*3.*~~(c)~~ Leaving the scene of a crash involving a ~~commercial~~ motor vehicle driven by such person;

*4.*~~(d)~~ Using a ~~commercial~~ motor vehicle in the commission of a felony;

*5.*~~(e)~~ Driving a commercial motor vehicle while in possession of a controlled substance;

*6.*~~(f)~~ Refusing to submit to a test to determine his or her alcohol concentration while driving a ~~commercial~~ motor vehicle;

*7.*~~(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

*8.*~~(h)~~ Causing a fatality through the negligent operation of a commercial motor vehicle.

(4) Any person who is transporting hazardous materials *as defined in s. 322.01(24)* ~~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) *which were committed while operating a commercial motor vehicle*, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. *Any holder of a commercial driver's license who is convicted of two violations specified in subsection (3) which were committed while operating a noncommercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.* The penalty provided in this subsection *is* ~~shall be~~ in addition to any other applicable penalty.

(6) Notwithstanding subsections (3), (4), and (5), any person who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle. *Notwithstanding subsections (3), (4), and (5), any holder of a commercial driver's license who uses a noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle.* The penalty provided in this subsection *is* ~~shall be~~ in addition to any other applicable penalty.

Section 41. Section 322.64, Florida Statutes, is amended to read:

322.64 Holder of commercial driver's license; *persons operating a commercial motor vehicle;* 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. *A law enforcement officer or correctional officer shall, on behalf of the department, disqualify the holder of a commercial driver's license from operating any commercial motor vehicle if the licenseholder, while operating or in actual physical control of a motor vehicle, is arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or refused to submit to a breath, urine, or blood test authorized by s. 322.63.* 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 *was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, and his or her driving privilege shall be disqualified for a period of 1 year for a first offense or permanently disqualified if his or her driving privilege has been previously disqualified under this section.* ~~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 *the* 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 *the* notice of disqualification~~, whichever is later~~.

4. The temporary permit issued at the time of ~~arrest or~~ disqualification *expires* ~~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 *disqualification* ~~arrest~~.

(2) Except as provided in paragraph (1)(a), the law enforcement officer shall forward to the department, within 5 days after the date of the ~~arrest or the~~ issuance of the notice of disqualification, ~~whichever is later,~~ a copy of the notice of disqualification, the driver's license of the person

*disqualified* ~~arrested~~, and ~~a report of the arrest, including, if applicable,~~ an affidavit stating the officer's grounds for belief that the person *disqualified* ~~arrested~~ was *operating or in actual physical control of a commercial motor vehicle, or holds a commercial driver's license, and had an unlawful blood-alcohol or breath-alcohol level* ~~in violation of s. 316.193~~; the results of any breath or blood *or urine* test or an affidavit stating that a breath, blood, or urine test was requested by a law enforcement officer or correctional officer and that the person arrested refused to submit; a copy of the *notice of disqualification* ~~citation~~ issued to the person ~~arrested~~; and the officer's description of the person's field sobriety test, if any. The failure of the officer to submit materials within the 5-day period specified in this subsection or subsection (1) *does* ~~shall~~ not affect the department's ability to consider any evidence submitted at or prior to the hearing. The officer may also submit a copy of a videotape of the field sobriety test or the attempt to administer such test *and a copy of the crash report, if any*.

(3) If the department determines that the person arrested should be disqualified from operating a commercial motor vehicle pursuant to this section and if the notice of disqualification has not already been served upon the person by a law enforcement officer or correctional officer as provided in subsection (1), the department shall issue a notice of disqualification and, unless the notice is mailed pursuant to s. 322.251, a temporary permit which expires 10 days after the date of issuance if the driver is otherwise eligible.

(4) If the person *disqualified* ~~arrested~~ requests an informal review pursuant to subparagraph (1)(b)3., the department shall conduct the informal review by a hearing officer employed by the department. Such informal review hearing shall consist solely of an examination by the department of the materials submitted by a law enforcement officer or correctional officer and by the person *disqualified* ~~arrested~~, and the presence of an officer or witness is not required.

(5) After completion of the informal review, notice of the department's decision sustaining, amending, or invalidating the disqualification must be provided to the person. Such notice must be mailed to the person at the last known address shown on the department's records, and to the address provided in the law enforcement officer's report if such address differs from the address of record, within 21 days after the expiration of the temporary permit issued pursuant to subsection (1) or subsection (3).

(6)(a) If the person *disqualified* ~~arrested~~ requests a formal review, the department must schedule a hearing to be held within 30 days after such request is received by the department and must notify the person of the date, time, and place of the hearing.

(b) Such formal review hearing shall be held before a hearing officer employed by the department, and the hearing officer shall be authorized to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas *for the officers and witnesses identified in documents as provided in subsection (2)*, regulate the course and conduct of the hearing, and make a ruling on the disqualification. The department and the person *disqualified* ~~arrested~~ may subpoena witnesses, and the party requesting the presence of a witness shall be responsible for the payment of any witness fees. If the person who requests a formal review hearing fails to appear and the hearing officer finds such failure to be without just cause, the right to a formal hearing is waived ~~and the department shall conduct an informal review of the disqualification under subsection (4)~~.

(c) A party may seek enforcement of a subpoena under paragraph (b) by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, a person shall not be in contempt while a subpoena is being challenged.

(d) The department must, within 7 days after a formal review hearing, send notice to the person of the hearing officer's decision as to whether sufficient cause exists to sustain, amend, or invalidate the disqualification.

(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 disqualification. The scope of the review shall be limited to the following issues:

(a) If the person was disqualified from operating a commercial motor vehicle for driving with an unlawful blood-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 commercial motor vehicle*, or any motor vehicle if the driver holds a commercial driver's license,* in this state while he or she had any alcohol, chemical substances, or controlled substances in his or her body.

~~2. Whether the person was placed under lawful arrest for a violation of s. 316.193.~~

*2.*~~3.~~ Whether the person had an unlawful blood-alcohol level *or breath-alcohol level of 0.08 or higher* ~~as provided in s. 316.193~~.

(b) If the person was disqualified from operating a commercial motor vehicle for refusal to submit to a breath, blood, or urine test:

1. Whether the law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a commercial motor vehicle*, or any motor vehicle if the driver holds a commercial driver's license,* in this state while he or she had any alcohol, chemical substances, or controlled substances in his or her body.

2. Whether the person refused to submit to the test after being requested to do so by a law enforcement officer or correctional officer.

3. Whether the person was told that if he or she refused to submit to such test he or she would be disqualified from operating a commercial motor vehicle for a period of 1 year or, in the case of a second refusal, permanently.

(8) Based on the determination of the hearing officer pursuant to subsection (7) for both informal hearings under subsection (4) and formal hearings under subsection (6), the department shall:

(a) Sustain the disqualification for a period of 1 year for a first refusal, or permanently if such person has been previously disqualified from operating a commercial motor vehicle as a result of a refusal to submit to such tests. The disqualification period commences on the date of the arrest or issuance of the notice of disqualification, whichever is later.

(b) Sustain the disqualification*:*

*1.* For a period of *1 year if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher; or* ~~6 months for a violation of s. 316.193 or for a period of 1 year~~

*2. Permanently* if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended *for driving or being in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher* ~~as a result of a violation of s. 316.193~~.

The disqualification period commences on the date of the arrest or issuance of the notice of disqualification~~, whichever is later~~.

(9) A request for a formal review hearing or an informal review hearing shall not stay the disqualification. If the department fails to schedule the formal review hearing to be held within 30 days after receipt of the request therefor, the department shall invalidate the disqualification. If the scheduled hearing is continued at the department's initiative, the department shall issue a temporary driving permit *limited to noncommercial vehicles* which *is* ~~shall be~~ valid until the hearing is conducted if the person is otherwise eligible for the driving privilege. Such permit shall not be issued to a person who sought and obtained a continuance of the hearing. The permit issued under this subsection shall authorize driving for business *purposes* ~~or employment use~~ only.

(10) A person who is disqualified from operating a commercial motor vehicle under subsection (1) or subsection (3) is eligible for issuance of a license for business or employment purposes only under s. 322.271 if the person is otherwise eligible for the driving privilege. However, such

business or employment purposes license shall not authorize the driver to operate a commercial motor vehicle.

(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. However, as provided in subsection (6), the driver may subpoena the officer or any person who administered or analyzed a breath or blood test.

(12) The formal review hearing and the informal review hearing are exempt from the provisions of chapter 120. The department is authorized to adopt rules for the conduct of reviews under this section.

(13) A person may appeal any decision of the department sustaining the disqualification from operating a commercial motor vehicle by a petition for writ of certiorari to the circuit court in the county wherein such person resides or wherein a formal or informal review was conducted pursuant to s. 322.31. However, an appeal shall not stay the disqualification. This subsection shall not be construed to provide for a de novo appeal.

(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.

(15) This section does not preclude the suspension of the driving privilege pursuant to s. 322.2615. The driving privilege of a person who has been disqualified from operating a commercial motor vehicle also may be suspended for a violation of s. 316.193.

Section 42. Subsection (10) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(10) JUDGMENT.—Any judgment *becoming* ~~which shall have become~~ final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damage.

Section 43. Subsection (19) of section 501.976, Florida Statutes, is amended to read:

501.976 Actionable, unfair, or deceptive acts or practices.—It is an unfair or deceptive act or practice, actionable under the Florida Deceptive and Unfair Trade Practices Act, for a dealer to:

(19) Fail to disclose damage to a new motor vehicle, as defined in s. 319.001*(9)*~~(8)~~, of which the dealer had actual knowledge, if the dealer's actual cost of repairs exceeds the threshold amount, excluding replacement items.

In any civil litigation resulting from a violation of this section, when evaluating the reasonableness of an award of attorney's fees to a private person, the trial court shall consider the amount of actual damages in relation to the time spent.

Section 44. *(1) The Automobile Lenders Industry Task Force is created within the Department of Highway Safety and Motor Vehicles. The task force shall make recommendations on proposed legislation and proposed department rules, shall present issues concerning the motor vehicle lending industry to the department for its consideration, shall consider any matters relating to the motor vehicle lending industry which are presented to it by the department, and shall submit a final report, including legislative proposals to the Governor, the President of the Senate, the Speaker of the House of Representatives, and appropriate committees within the Legislature by June 30, 2009, when the task force shall cease to exist.*

*(2) The task force shall be composed of 12 members appointed by each of the following organizations: one representative of the Department of Highway Safety and Motor Vehicles; one representative of the independent motor vehicle industry, appointed by the Florida Independent Automobile Dealers Association; one representative of the franchise motor vehicle industry, appointed by the Florida Automobile Dealers Association; one representative of credit unions, appointed by the Florida Credit Union League; one representative of the banking industry, appointed by the Florida Bankers Association; one representative of the insurance industry, appointed by the Florida Insurance Council; one state attorney, appointed by the Florida State Attorneys Association; one representative of the Office of Financial Regulation of the Department of Financial Services; one representative of a law enforcement agency, appointed by the Florida Auto Theft Intelligence Unit; one representative of the auto repair industry, appointed by the Florida Automotive Services Association; one representative of the towing industry, appointed by the Professional Wrecker Operators of Florida; and one representative of independent motor vehicle finance companies, appointed by the Florida Financial Services Association.*

*(3)(a) The task force shall elect a chair and vice chair at its initial meeting, which shall be held by October 1, 2008.*

*(b) The task force shall meet at least four times in different areas of the state, including one meeting in Tallahassee. Meetings may be called by the chair or by a simple majority of the members. The task force shall conduct all meetings pursuant to general law and shall keep minutes of its meetings. Meetings may be held in locations around the state in department facilities or in other appropriate locations. The department shall provide administrative support to the task force.*

*(4) Members from the private sector are not entitled to per diem or reimbursement for travel expenses. However, members from the public sector are entitled to reimbursement, if any, from their respective agency. The task force may request assistance from the Department of Highway Safety and Motor Vehicles as necessary.*

Section 45. *Except for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, Florida Statutes, prior to the effective date of this act, or which was included in a bill filed during the 2008 Legislative Session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, Florida Statutes, between July 1, 2008, and July 1, 2011.*

Section 46. *Joseph P. Bertrand Building designated; Department of Highway Safety and Motor Vehicles to erect suitable markers.—*

*(1) The Regional Transportation Management Center in the City of Fort Myers in Lee County is designated the "Joseph P. Bertrand Building."*

*(2) The Department of Highway Safety and Motor Vehicles is directed to erect suitable markers designating the "Joseph P. Bertrand Building" as described in subsection (1).*

Section 47. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2008.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.0741, F.S.; redefining the term "hybrid vehicle"; authorizing the driving of a hybrid, low-emission, or energy-efficient vehicle in a high-occupancy-vehicle lane regardless of occupancy; authorizing the department to limit or discontinue such driving under certain circumstances; directing the Department of Transportation to review a specified federal rule and make a report to the Legislature; exempting certain vehicles from the payment of certain tolls; amending s. 316.1575, F.S.; requiring a person walking or driving a vehicle to stop at a railroad crossing upon the signal of a law enforcement officer; amending s. 316.1895, F.S.;

requiring the placement of signs in certain school zones stating that speeding fines are doubled within the zone; amending s. 316.191, F.S.; providing a definition of the term "spectator"; prohibiting a person from being a spectator at an illegal drag race; providing noncriminal penalties; amending s. 316.193, F.S.; lowering the blood-alcohol or breath-alcohol level for which enhanced penalties are imposed against a person convicted of driving under the influence; clarifying that an ignition interlock device is installed for a continuous period; amending s. 316.1937, F.S.; revising the conditions under which the court may require the use of an ignition interlock device; amending s. 316.251, F.S.; conforming a cross-reference; amending s. 316.302, F.S.; revising references to rules, regulations, and criteria governing commercial motor vehicles engaged in intrastate commerce; providing that the Department of Transportation performs duties assigned to the Field Administrator of the Federal Motor Carrier Safety Administration under the federal rules and may enforce those rules; amending ss. 316.613 and 316.614, F.S.; revising the definition of "motor vehicle" for purposes of child restraint and safety belt usage requirements; amending s. 316.645, F.S.; authorizing a police officer to make an arrest upon probable cause of a violation of laws governing motor vehicle licenses; amending s. 316.650, F.S.; revising requirements for traffic citation forms; providing for the electronic transmission of citation data; amending s. 316.656, F.S.; lowering the percentage of blood or breath alcohol content relating to the prohibition against pleading guilty to a lesser offense of driving under the influence than the offense charged; amending s. 318.14, F.S.; prohibiting a person from electing more than five times within 10 years to attend a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles in lieu of making a court appearance; amending s. 319.001, F.S.; defining the term "certificate of title" to include information stored electronically in the department's database; amending s. 320.01, F.S.; revising the definition of the term "motorcycle" to exclude a vehicle in which the operator is enclosed by a cabin; amending s. 320.02, F.S.; deleting the requirement for a motorcycle endorsement at the time of original registration of a motorcycle, motor-driven cycle, or moped; repealing s. 320.02(13), F.S., relating to a motor vehicle registration voluntary contribution for the Election Campaign Financing Trust Fund; amending s. 320.0706, F.S.; providing that a violation of requirements for displaying a truck license plate is a moving violation; amending s. 320.0715, F.S.; requiring the department to withhold issuing or to suspend a registration and license plate for a commercial motor vehicle if the federal identifying number is not provided or if the motor carrier or vehicle owner has been prohibited from operating; amending s. 320.08053, F.S.; removing a requirement that the department create certain specifications by rule for specialty license plates; amending s. 320.0894, F.S.; providing for issuance of Gold Star license plates to certain family members; amending s. 320.131, F.S.; requiring motor vehicle temporary tags to be affixed on the exterior of the vehicle; revising the requirement that the department specify media for motor vehicle temporary tags; revising the requirement that the department implement a print-on-demand electronic system for temporary tag issuance; providing for limited use of a backup manual issuance method during an outage; providing for rulemaking and certain exemptions; amending s. 320.27, F.S.; revising the insurance requirements for persons applying for a motor vehicle dealer license; conforming a cross-reference; repealing s. 320.96, F.S., relating to a print-on-demand electronic temporary license plate system; amending s. 322.01, F.S.; defining the term "convenience service" for purposes of transactions with the department; revising the definition of the term "conviction" to provide for application to offenses committed by a person holding a commercial driver's license; revising the definition of the terms "hazardous materials" and "out-of-service order"; amending s. 322.051, F.S.; revising requirements for application for issuance or renewal of an identification card; revising provisions providing for the expiration of an identification card issued by the department; amending s. 322.08, F.S.; revising requirements for application for a driver's license; removing a provision requiring the application form to include language permitting a voluntary contribution for the Election Campaign Financing Trust Fund; amending s. 322.14, F.S.; revising provisions for content of a driver's license; requiring the license to contain the licensee's residence address; removing a requirement that the license contain the licensee's mailing address; amending s. 322.15, F.S.; authorizing a law enforcement officer or authorized representative of the department to collect a person's fingerprints electronically; amending s. 322.17, F.S.; revising provisions for replacement of an instruction permit or driver license; removing fee amounts; requiring payment of specified fee amounts; removing a provision for a change of address sticker; conforming cross-references; amending s. 322.18, F.S.; revising provisions providing for the expiration and renewal of driver's licenses; providing for the renewal of certain licenses every 8 years; conforming cross-references; providing for the renewal of licenses using a convenience service; requiring the department to issue new licenses rather than extension stickers; repealing s. 322.181(4), F.S., relating to the Florida At-Risk Driver Council; amending s. 322.19, F.S.; revising provisions for a licensee changing address; removing a provision for the licensee to request a change-of-address sticker; conforming cross-references; amending s. 322.21, F.S.; revising fees for issuance of original, renewal, and replacement driver's licenses and identification cards; revising fees for specified endorsements; providing for distribution of revised fees; amending s. 322.2715, F.S.; providing that the required installation period of an ignition interlock device for certain DUI offenses be continuous; amending s. 322.291, F.S.; providing additional requirements for a third or subsequent violation of requirements for installation of an ignition interlock device; requiring treatment and extension of the duration of the ignition interlock requirement; amending s. 322.36, F.S.; requiring the suspension for a specified period of the driver's license of a person who loans a vehicle to a person whose driver's license is suspended if that vehicle is involved in an accident resulting in bodily injury or death; repealing s. 322.60, F.S., relating to the prohibition on commercial motor vehicle drivers possessing more than one license; amending s. 322.61, F.S.; clarifying provisions disqualifying a person from operating a commercial motor vehicle following certain traffic violations; providing for permanent disqualification following conviction of a felony involving the manufacture, distribution, or dispensing of a controlled substance; amending s. 322.64, F.S.; providing that a person's privilege to drive a commercial motor vehicle is disqualified if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the person holds a commercial driver's license, with an unlawful blood-alcohol level or breath-alcohol level or refuses to submit to a breath, urine, or blood test; providing for the period of disqualification; providing procedures; providing for issuance of a notice of disqualification; revising the requirements for a formal review hearing following a person's disqualification from operating a commercial motor vehicle; amending s. 324.021, F.S.; clarifying that a judgment becomes final by expiration of the time for appeal; amending s. 501.976, F.S.; conforming a cross-reference; creating the Automobile Lenders Industry Task Force within the Department of Highway Safety and Motor Vehicles; providing duties of the task force; providing for membership and the election of officers; providing for meetings; providing for reimbursement for travel and per diem expenses for public-sector members; requiring the department to provide administrative support and assistance to the task force; prohibiting the Department of Highway Safety and Motor Vehicles from issuing any new specialty license plates for a specified period; designating the Joseph P. Bertrand Building in Lee County; providing effective dates.

On motion by Senator Baker, the Senate concurred in the House amendment.

**CS for CS for CS for SB 1992** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

| | | |
|---|---|---|
| Mr. President | Fasano | Oelrich |
| Alexander | Gaetz | Peaden |
| Aronberg | Garcia | Posey |
| Atwater | Geller | Rich |
| Baker | Haridopolos | Ring |
| Bennett | Hill | Saunders |
| Bullard | Jones | Siplin |
| Carlton | Joyner | Storms |
| Crist | Justice | Villalobos |
| Dean | King | Webster |
| Deutch | Lawson | Wilson |
| Diaz de la Portilla | Lynn | Wise |
| Dockery | Margolis | |

Nays—None

Vote after roll call:

Yea—Constantine

## MOTIONS

On motions by Senator Carlton, by two-thirds vote **CS for SB 838**, **SB 1626**, **CS for CS for SB's 2086 and 2498**, **CS for SB 2272**, **CS for SB**

**2374**, **CS for SB 2494**, **CS for SB 2504** and **CS for CS for SB 2528** were placed on the Special Order Calendar.

On motion by Senator Carlton, the deadline for filing amendments to the following bills was set for 7:30 p.m. this day: **CS for SB 838**, **SB 1626**, **CS for CS for SB's 2086 and 2498**, **CS for SB 2272**, **CS for SB 2374**, **CS for SB 2494**, **CS for SB 2504** and **CS for CS for SB 2528**.

On motion by Senator King, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Friday, May 2.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Atwater, by two-thirds vote **CS for CS for SB 2528** was withdrawn from the Committee on General Government Appropriations.

On motion by Senator Atwater, by two-thirds vote **CS for SB 2494** was withdrawn from the Committee on Judiciary.

On motion by Senator Dockery, by two-thirds vote **CS for SB 838** was withdrawn from the Committee on Criminal and Civil Justice Appropriations.

On motion by Senator Saunders, by two-thirds vote **SB 2750** was withdrawn from the Committee on Judiciary.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for HB 967, CS for HB 1037, CS for HB 1417; has passed as amended CS for CS for HB 601, CS for CS for HB 679, CS for HB 727, CS for HB 1105, HB 7113; has passed by the required Constitutional three-fifths vote of the membership CS for HB 7097 and requests the concurrence of the Senate.

*William S. Pittman III,* Chief Clerk

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By the Policy and Budget Council; Government Efficiency and Accountability Council; and Representative A. Gibson and others—

**CS for CS for HB 967**—A bill to be entitled An act relating to workplace safety; creating the Florida Public Task Force on Workplace Safety within the Safety Florida Consultation Program at the University of South Florida; providing the purpose of the task force; providing for membership; requiring that the task force address certain issues concerning workplace safety in the public and private sectors; providing for staffing; providing for members to serve without compensation but to be reimbursed for per diem and travel expenses; authorizing the task force to procure information or assistance from any officer or agency of the state; requiring that such officers or agencies provide information and assistance to the task force; requiring that the task force submit a report and recommendations to the Governor, the Chief Financial Officer, and the Legislature by a specified date; requiring that the report include certain information; providing for dissolution of the task force; providing an appropriation; providing an effective date.

—was referred to the Committees on Governmental Operations; Banking and Insurance; and General Government Appropriations.

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By the Jobs and Entrepreneurship Council; and Representative Poppell and others—

**CS for HB 1037**—A bill to be entitled An act relating to escrow agents; creating s. 877.101, F.S.; prohibiting unauthorized persons from transacting business using the term "escrow" in a name or a title under certain circumstances; providing for nonapplication to certain persons or entities; authorizing certain persons to bring an action for declaratory relief for certain purposes; providing for recovery by injured persons of actual damages plus attorney fees and court costs in certain actions; providing criminal penalties; providing an effective date.

—was referred to the Committee on Banking and Insurance.

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By the Safety and Security Council; and Representative Gardiner—

**CS for HB 1417**—A bill to be entitled An act relating to counterfeit goods; amending s. 831.03, F.S.; creating and revising definitions; creating s. 831.031, F.S.; providing that possession of more than a specified number of counterfeit items, unless satisfactorily explained, allows an inference that such property is possessed with intent to offer it for sale or distribution in certain circumstances; providing that a state or federal certificate of registration of trademark shall be prima facie evidence of the facts stated therein; creating s. 831.032, F.S.; prohibiting specified offenses concerning involving forging or counterfeiting private labels; providing penalties; providing for reclassification of specified offenses; providing for fines based on the retail value of goods in certain circumstances; providing for restitution; providing applicability of certain defenses and limitations on remedies to prosecutions under the section; creating s. 831.033, F.S.; providing for destruction or forfeiture of goods to which the forged or counterfeit trademarks or service marks were attached; providing for forfeiture of property constituting or derived from any proceeds of a counterfeiting offense; permitting alternative disposure of forfeited items bearing or consisting of a counterfeit trademark with the written consent of the trademark owners; providing for the costs of such alternative disposition; creating s. 831.034, F.S.; providing that prosecution under specified provisions does not preclude the applicability of any other provision of the law that applies or may in the future apply to any transaction which violates specified provisions, unless such provision is inconsistent with the terms of those provisions; repealing s. 831.05, F.S., relating to vending goods or services with counterfeit trademarks or service marks; providing an effective date.

—was referred to the Committees on Commerce; and Criminal Justice.

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By the Policy and Budget Council; Jobs and Entrepreneurship Council; and Representative Hudson and others—

**CS for CS for HB 601**—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 718.111, F.S.; requiring that hazard insurance be based upon the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal; requiring that the full insurable value be determined at specified intervals; providing a means by which an association may provide adequate hazard insurance; authorizing an association to consider certain information when determining coverage amounts; providing for coverage by developer-controlled associations; providing that policies may include deductibles as determined by the association's board of directors; providing requirements and guidelines for the establishment of such deductibles; requiring that the amounts of deductibles be set at a meeting of the board; providing requirements for such meeting; requiring that an association controlled by unit owners operating as a residential condominium use its best efforts to obtain and maintain adequate insurance to protect the association and property under its supervision or control; providing that a declaration of condominium may provide that condominium property consisting of freestanding buildings comprised of no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property; authorizing an association to obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units; requiring that every hazard insurance policy issued or renewed on or after a specified date for the purpose of protecting the condominium provide certain coverage; requiring that such policies contain certain provisions; providing that such policies issued to individual unit owners do not provide rights of subrogation against the condominium association; providing for the insurance of improvements or additions benefiting fewer than all unit owners; requiring that an association require each owner to provide

evidence of a current policy of hazard and liability insurance upon request; limiting the frequency with which an association may make such a request; authorizing an association to purchase coverage on behalf of an owner under certain circumstances; providing for the collection of the costs of such a policy; providing responsibilities of the unit owner and association with regard to reconstruction work and associated costs after a casualty loss; authorizing a multicondominium association to operate such condominiums as a single condominium for certain purposes by majority vote of the members of all applicable condominiums; providing that such election constitutes an amendment to the declaration of all applicable condominiums; requiring that an association maintain insurance or fidelity bonding for all persons who control or disburse association funds; requiring that such insurance policy or fidelity bond cover the maximum funds in the custody of the association or its management agent at any one time; defining the term "persons who control or disburse funds of the association"; authorizing an association to amend the declaration of condominium without regard to any requirement for approval by mortgagees of amendments affecting insurance requirements for the purpose of conforming the declaration of condominium to certain coverage requirements; providing that any portion of the condominium property required to be insured by the association against casualty loss which is damaged be reconstructed, repaired, or replaced as necessary by the association as a common expense; providing that all hazard insurance deductibles, uninsured losses, and other damages in excess of hazard insurance coverage under the hazard insurance policies maintained by the association are a common expense of the condominium; providing exceptions; allocating responsibility for certain costs of repair or reconstruction; authorizing an association to opt out of certain requirements related to such allocation of responsibility by majority vote; providing a procedure by which a multicondominium association that has not consolidated its financial operations may opt out of such allocation of responsibility; requiring that a decision to opt out be recorded; providing that such decision takes effect on the date on which it is recorded; authorizing the reversal of such decision; providing a procedure for reversal; providing that an association is not obligated to pay for any reconstruction or repair expenses for improvements made by an owner or the development if an improvement benefits only the unit for which it was installed; amending s. 718.115, F.S.; requiring that certain expenses be designated as common expenses; amending s. 718.116, F.S.; authorizing the designee of a unit owner or mortgagee to request a certificate of assessment; requiring that the fee for preparation of such certificate be stated on the certificate; providing for the establishment of such fees; providing for payment of the fee; requiring that the fee be refunded if a planned sale or mortgage does not occur; providing that any such refund is the obligation of the unit owner and is collectable in the same manner as an assessment; amending s. 718.117, F.S.; prohibiting the distribution of proceeds from the sale of a condominium unit to a lienholder from exceeding a unit owner's share of the proceeds; creating s. 720.30851, F.S.; requiring that the association provide a certificate signed by an officer or agent of the association stating all assessments and other moneys owed to the association by the parcel owner or mortgagee with respect to the parcel within a specified period after the association's receipt of a request for an estoppel certificate by an owner or mortgagee; providing that any person other than a parcel owner who relies upon a certificate receives the benefits and protection thereof; providing that a summary proceeding may be brought to compel the association to comply with the requirement to provide a certificate; providing that the prevailing party is entitled to recover reasonable attorney's fees; requiring that the fee for preparation of such certificate be stated on the certificate; providing for the establishment of such fees; providing for payment of the fee; requiring that the fee be refunded if a planned sale or mortgage does not occur; providing that any such refund is the obligation of the parcel owner and is collectable in the same manner as an assessment; amending s. 489.1425, F.S.; providing an exemption from the written notice requirement; amending s. 20.165, F.S.; changing the name of the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Florida Condominiums, Timeshares, and Mobile Homes and the Division of Technology, Licensure, and Testing to the Division of Technology; amending s. 215.20, F.S.; conforming the name of the division's trust fund to correspond to the name change of the division; amending s. 450.33, F.S.; removing the requirement for a farm labor contractor to file a set of fingerprints with the department; amending s. 455.203, F.S.; authorizing the department to close and terminate deficient license applications and to approve professional license applications meeting certain criteria; amending s. 455.217, F.S.; conforming terminology to changes made by the act; amending s. 455.2273, F.S.; authorizing the section to apply to disciplinary guidelines adopted by all boards and divisions; amending s. 468.841, F.S.; clarifying exemption provisions for license provisions governing mold-related services; amending s. 475.17, F.S.; revising requirements for licensure as a real estate broker; amending s. 475.451, F.S.; deleting requirements relating to the submission of certain real estate course rosters to the department; amending s. 477.019, F.S., relating to cosmetologists; allowing a student to apply for licensure examination prior to graduation and to practice prior to licensure; amending s. 489.105, F.S.; clarifying that individuals and business entities that sell manufactured and factory-built buildings can legally enter into contracts for those sales; amending s. 489.511, F.S.; revising requirements for taking the electrical or alarm system contractor certification examination; providing requirements for certification; amending s. 489.515, F.S.; revising requirements for certification as a certified contractor by the Electrical Contractors' Licensing Board to reflect changes made to s. 489.511, F.S., by this act; renumbering s. 498.009, F.S., relating to the location of the division's offices; amending and renumbering s. 498.011, F.S., relating to payment of per diem, mileage, and other expenses for division employees; providing for reimbursement of expenses for on-site review; deleting the expense reimbursement for inspection of subdivided lands; renumbering s. 498.013, F.S., relating to the authentication of records; amending and renumbering s. 498.057, F.S., relating to service of process; deleting provision that service may be made by delivering a copy of the process to the division director; providing that the division can be the petitioner or the plaintiff; repealing ss. 498.001, 498.003, 498.005, 498.007, 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061, and 498.063, F.S., relating to regulation of land sales practices; amending s. 548.0065, F.S.; including amateur mixed martial arts in a provision relating to the authority of the Florida State Boxing Commission to suspend amateur matches for violation of certain health and safety standards; amending s. 548.008, F.S.; removing prohibition against holding amateur mixed martial arts matches in this state; amending s. 548.041, F.S.; providing additional licensure requirements for boxing participants; amending s. 718.501, F.S.; providing additional powers and duties of the division; providing for additional enforcement proceedings for carrying out the purposes of ch. 718, F.S.; deleting the payment of money by a developer to a condominium association as a permissible affirmative action; providing for actions of conservator or receiver; providing for application to circuit court for an order of restitution; providing for imposition of civil penalties and award of court costs, attorney's fees, and costs of investigation under certain circumstances; providing for contracting for investigative services; providing for acceptance of grants-in-aid; requiring the cooperation with similar agencies on establishment of certain procedures, standards, and forms; providing what constitutes completeness of notice; authorizing the division to issue a notice to show cause; providing conforming changes; amending s. 718.509, F.S., and transferring, renumbering, and amending s. 498.019, F.S.; consolidating and revising provisions relating to the creation, purposes, and sources of funds of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund; revising provisions to conform to the change in division name; providing for the deposit of moneys resulting from an administrative final order; amending s. 721.03, F.S.; clarifying that timeshare plan includes a nonspecific multisite timeshare plan; amending ss. 73.073, 190.009, 192.037, 213.053, 326.002, 326.006, 380.05, 380.06, 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512, 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011, 718.502, 718.504, 718.508, 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608, 720.301, 720.401, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 721.50, 723.003, 723.006, 723.009, and 723.0611, F.S., to conform; providing effective dates.

—was referred to the Committees on Regulated Industries; Banking and Insurance; and Judiciary.

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By the Policy and Budget Council; Safety and Security Council; and Representative Gardiner and others—

**CS for CS for HB 679**—A bill to be entitled An act relating to residential properties; amending s. 34.01, F.S.; conforming a cross-reference; amending s. 514.011, F.S.; providing definitions; amending s. 514.0115, F.S.; providing specified supervision and regulation exemptions for homeowners' association swimming pools; amending s. 515.25, F.S.; conforming a cross-reference; creating s. 515.295, F.S.; providing definitions; requiring residential pools and spas built after a specified date to have certain features; amending s. 720.302, F.S.; conforming a cross-

reference; providing legislative intent; amending s. 720.303, F.S.; revising provisions relating to homeowners' association board meetings, inspection and copying of records, and reserve accounts of budgets; prohibiting salary or compensation of certain association personnel for certain duties; providing exceptions; amending s. 720.305, F.S.; revising a lien restriction; amending s. 720.306, F.S.; providing absentee ballot voting requirements; requiring newly elected members of a board of directors to make certain certifications in writing to the association; providing for disqualification for failure to make such certifications; requiring an association to retain such certifications for a certain time; repealing s. 720.311, F.S., relating to dispute resolution; providing that dispute resolution proceedings that are pending as of the date of repeal shall continue under the repealed provisions; amending s. 720.401, F.S.; revising certain prospective parcel owner disclosure summary requirements; creating part IV of ch. 720, F.S.; creating s. 720.501, F.S.; providing a short title; creating s. 720.502, F.S.; providing legislative findings; creating s. 720.503, F.S.; providing applicability; providing for mediation and arbitration of homeowners' association disputes; providing exceptions; authorizing the filing of a motion for temporary injunctive relief; providing for the tolling of applicable statutes of limitations; creating s. 720.504, F.S.; providing notification requirements; creating s. 720.505, F.S.; providing a statutory notice form for referral to mediation; providing requirements for the service of such notice; requiring parties to share costs of presuit mediation equally; providing response requirements; providing scheduling requirements; providing for impasse under certain conditions; prohibiting certain parties from recovering attorney's fees and costs in subsequent litigation proceedings; creating s. 720.506, F.S.; authorizing certain persons to opt out of presuit mediation; providing requirements for a person to opt out of such mediation; creating s. 720.507, F.S.; providing a statutory notice form for referral to arbitration; providing requirements for the service of such notice; requiring parties to share costs of arbitration equally; providing scheduling requirements; providing for impasse under certain conditions; prohibiting certain parties from recovering attorney's fees and costs in subsequent litigation proceedings; creating s. 720.508, F.S.; providing rules of procedure for presuit mediation and presuit arbitration proceedings; providing for confidentiality; creating s. 720.509, F.S.; providing qualifications for mediators and arbitrators; creating s. 720.510, F.S.; providing for enforcement of mediation settlement agreements and arbitration awards; requiring the department to apply for and implement a federal grant for enforcing swimming pool safety standards; requiring the Department of Health, the Department of Community Affairs, and the Florida Building Commission to assess state statutes and the Florida Building Code to determine if changes are needed to comply with federal standards pertaining to swimming pool and spa safety; requiring the Department of Health to present the assessment to the Legislature by a specified date; providing effective dates.

—was referred to the Committee on Regulated Industries.

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By the Jobs and Entrepreneurship Council; and Representative H. Gibson and others—

**CS for HB 727**—A bill to be entitled An act relating to firesafety; providing a short title; amending s. 633.022, F.S.; including application of uniform firesafety standards to tunnels; revising application of automatic sprinkler systems requirements to nursing homes; requiring a nursing home licensee to submit complete sprinkler construction documents to the Agency for Health Care Administration by a specified date; requiring such licensee to gain final approval from the agency to start construction by a specified date; authorizing the agency to extend the deadline under certain circumstances; amending s. 633.0245, F.S.; providing a new application deadline for participation in the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program; amending s. 663.0215, F.S., requiring the State Fire Marshal to conduct a study on the use of voice-over-Internet-protocol telephone service for monitoring fire alarm systems; requiring rulemaking under certain conditions; creating s. 633.027, F.S.; requiring owners of certain structures to post certain signs or symbols on the structures; requiring the State Fire Marshal to adopt rules governing such signs or symbols; providing for enforcement; providing penalties; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Community Affairs.

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By the Safety and Security Council; and Representative Rivera—

**CS for HB 1105**—A bill to be entitled An act relating to community associations; amending s. 718.1124, F.S., and creating ss. 719.1124 and 720.3053, F.S.; providing for notification of a unit owner's or member's intent to petition for the appointment of a receiver if an association's governing board fails to fill vacancies sufficient to constitute a quorum; providing for written notice to unit owners or members of any such appointment; requiring the salary of the receiver and certain costs and fees to be paid by the association; providing powers, duties, and term of service of the receiver; amending s. 718.117, F.S., and creating ss. 718.127, 719.127, and 720.313, F.S.; specifying receivership notification requirements with respect to condominium associations, cooperative associations, and homeowners' associations; amending s. 718.121, F.S.; providing requirements and restrictions for liens filed by the association against a condominium unit; providing for notice and delivery thereof; amending s. 719.108, F.S.; prohibiting a lien from being filed against a condominium unit or cooperative parcel until 30 days after service of a notice of intent to file the lien; amending s. 720.305, F.S.; deleting notification requirements for the appointment of a receiver under specified circumstances for matters relating to homeowners' associations; providing an effective date.

—was referred to the Committees on Regulated Industries; and Community Affairs.

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By the Safety and Security Council; and Representative Adams—

**HB 7113**—A bill to be entitled An act relating to the Department of Law Enforcement; amending s. 943.05, F.S.; providing that if fingerprints submitted to the Department of Law Enforcement for background screening are identified with the fingerprints of a person having a criminal history record, the department may make the fingerprints available for all purposes and uses authorized for arrest fingerprint cards; amending s. 943.053, F.S.; clarifying provisions relating to the fees charged for requests for criminal history information; amending s. 943.0542, F.S.; authorizing a qualified entity requesting screening information concerning an employee or volunteer, or a person applying to be an employee or volunteer, to submit the request electronically; requiring the qualified entity to maintain a signed waiver allowing the release of the state and national criminal history record information to the qualified entity; revising provisions relating to the fees for such screenings; amending s. 943.0581, F.S.; revising the information to be included in an application for an administrative expunction of any nonjudicial record of an arrest of a minor or an adult made contrary to law or by mistake; permitting specified officials to make an application for an administrative expunction; amending s. 943.0585, F.S.; providing additional circumstances in which a person may not lawfully deny or fail to acknowledge the arrests covered by an expunged criminal history record; amending s. 943.059, F.S.; providing that sealed criminal history records may be available to judges in the state courts system for specified purposes; providing additional circumstances in which a person may not lawfully deny or fail to acknowledge the arrests covered by a sealed criminal history record; amending s. 943.06, F.S.; adding the Secretary of Children and Family Services, or the secretary's designated assistant, to the Criminal and Juvenile Justice Information Systems Council; amending s. 943.08, F.S.; revising the duties of the Criminal and Juvenile Justice Information Systems Council; amending s. 943.081, F.S.; specifying and clarifying the principles adopted by the Criminal and Juvenile Justice Information Systems Council as the guiding principles for the management of public safety system information technology resources; authorizing creation of a citizen support organization for Florida Missing Children's Day by the Department of Law Enforcement to provide assistance, funding, and promotional support for activities authorized for that day; providing for duties and functions of the support organization; authorizing the department to fix and collect charges for the rental of facilities and properties managed by the department and providing for deposit and use of moneys collected; providing that the support organization is not a lobbyist; providing for the use and management of department property; providing for an annual audit; providing an effective date.

—was referred to the Committee on Criminal Justice.

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By the Policy and Budget Council; Government Efficiency and Accountability Council; and Representative Domino—

**CS for HB 7097**—A bill to be entitled An act relating to trust funds; creating s. 218.417, F.S.; creating the Fund B Surplus Funds Trust Fund within the State Board of Administration; providing for source of funds; providing for transfer of certain funds to the trust fund; providing for annual carryforward of funds; providing for termination of the trust fund upon self-liquidation; providing an effective date.

—was referred to the Committees on Governmental Operations; and General Government Appropriations.

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**RETURNING MESSAGES—FINAL ACTION**

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 92, CS for CS for SB 428, CS for SB 630, CS for SB 948, CS for CS for SB 1360, SB 1456, CS for SB 1474, CS for SB 1552, SB 1558, CS for SB 1616, CS for SB 1694, CS for CS for CS for SB 2016 and CS for CS for SB 2532.

*William S. Pittman III*, Chief Clerk

The bills contained in the foregoing messages were ordered enrolled.

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Reports in their entirety and passed CS for CS for SB 1286, CS for CS for SB 1294, CS for CS for SB 1702, CS for SB 1774, CS for SB 1788, CS for SB 1790, CS for SB 1792, CS for SB 1864, CS for SB 1882, CS for SB 1888, CS for SB 1892, CS for SB 1988, CS for CS for SB 2000 and SB 2820 as amended by the Conference Committee Reports.

*William S. Pittman III*, Chief Clerk

The bills contained in the foregoing messages were ordered engrossed and then enrolled.

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The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment(s) and passed CS for HB 3, CS for CS for HB 43, CS for HB 165, CS for HB 623, CS for HB 803, HB 879, CS for CS for HB 1175, CS for HB 1313, HB 5065, HB 7049, HB 7075, CS for HB 7083 and HB 7103 as amended.

*William S. Pittman III*, Chief Clerk

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 30 was corrected and approved.

## CO-INTRODUCERS

Senators Aronberg—CS for CS for CS for SB 996, CS for CS for SB 1062; Crist—CS for CS for SB 76, CS for SB 82, SB 86, SB 88, SB 90, CS for SB 390, SB 424, CS for SB 472, SB 496, CS for SB 502, CS for SB 622, CS for CS for SB's 1094 and 326, SB 1524, SB 1564, CS for SB 2350, CS for SB 2574; Fasano—CS for CS for SB 2012; Joyner—CS for SB 644; Lynn—SB 432, CS for CS for SB 526, CS for CS for SB 696, CS for SB 948, CS for CS for SB 992, CS for CS for CS for SB 996, SB 1554; Wilson—CS for SB 276, CS for SB 646, CS for SB 732, CS for CS for CS for SB 756, CS for CS for SB 766, CS for CS for SB 858, CS for SB 1116, CS for SB 1474, SR 2090, CS for SB 2660, CS for CS for SB 2848, CS for CS for SB's 2860 and 1196, SR 2922

## RECESS

On motion by Senator King, the Senate recessed at 5:51 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Friday, May 2 or upon call of the President.