

## CHAPTER 97-265

### House Bill No. 2121

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

236.25(2) and (5), F.S., relating to school districts' tax for capital outlay; requiring prior legislative review; suspending certain concurrency requirements of chapter 163, F.S.; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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

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

Section 2. School Infrastructure Thrift Program Act.—

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

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

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

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

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

(3) Funds shall be appropriated to the SIT Program on an annual basis as determined by the Legislature. Notwithstanding ss. 216.301 and 216.351,

Florida Statutes, undisbursed balances of appropriations to the SIT Program shall not revert. It is the intent of the Legislature to continue funding the SIT Program with funds available through frugal government operation and agency savings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Require each board, including the Board of Regents, all agencies of the state, and other appropriate agencies to submit complete and accurate financial data as to the amounts of funds from all sources that are available and spent for construction and capital improvements. The commissioner shall prescribe the format and the date for the submission of this data and any other educational facilities data. If any district does not submit the required educational facilities fiscal data by the prescribed date, the commissioner shall notify the district school board of this fact and, if appropriate action is not taken to immediately submit the required report, the district school board shall be directed to proceed pursuant to the provisions of s. 230.23(11)(b). If any community college or university does not submit the required educational facilities fiscal data by the prescribed date, the same policy prescribed above for school districts shall be implemented.

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

1. The term “validate” as applied to surveys by school districts means to review inventory data as submitted to the department by district school boards; provide for review and inspection, where required, of student stations and aggregate square feet of inventory changed from satisfactory to

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

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

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

235.15 Educational plant survey; PECO project funding.—

(1) At least every 5 years, each board, including the Board of Regents, shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. ~~Before educational plant survey of a school district or community college that delivers career or adult education programs,~~ The Division of Applied Technology and Adult Education shall document ~~establish documentation~~ of the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career

or adult education may be included in the education plant survey of a school district or community college that delivers career or adult education programs. Information used by the Division of Applied Technology and Adult Education to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

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

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

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

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

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

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

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

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

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

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

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

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

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The State Board of Education shall adopt a uniform state-wide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code shall be entitled the State Uniform Building

Code for Public Educational Facilities Construction. Included in this code shall be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R., parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. Whenever the words "Uniform Building Code" appear, they shall mean the "State Uniform Building Code for Public Educational Facilities Construction." It shall not be the intent of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor shall it specify or prohibit materials by brand names. The code shall be flexible enough to cover all phases of construction which will afford reasonable protection for public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it may find desirable in the revision of the code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session. The State Board of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth

and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 235.15 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the Chancellor for university projects or by the Division of Community Colleges for community college projects. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

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

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

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

(b) Each district school board must not use funds from the Public Education Capital Outlay Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction with a total contract cost, including change orders, that equals more than 110 percent of the adjusted statewide average total construction cost per gross square foot, adjusted by the appropriate construction cost index and the 5-year average statewide inflation rate. Upon request by a district school board the Commissioner of Education may waive for a specific project the provisions of this paragraph which limit total contract cost and the provisions of subparagraph (c)2. which limit construction cost per student station if the commissioner is satisfied that the requested waiver is justified. Operating funds must be used to pay any part of the total construction cost, including costs resulting from change orders, which exceeds the expenditure limits of this subsection.

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

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

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

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

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

236.25 District school tax.—

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

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

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

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

(a) In fiscal year 1997-1998, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials

directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 85 percent of the amount that was spent for those purposes in fiscal year 1995-1996, which shall be the base year, from the proceeds of the millage levied under subsection (2).

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

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

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

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

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

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

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

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

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

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

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

(b) The site for the public school must:

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

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

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

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

(c) The educational facilities of the public school:

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

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

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

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

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

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

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

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

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

provided by the Legislature or the district has had a performance review pursuant to sections 11.515 and 230.2302, Florida Statutes.

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

(4) District school boards that agree by a majority-plus-one vote to institute the action plan shall submit an annual report to OPPAGA, the Auditor General, and the Commissioner of Education on progress made towards implementing the plan and whether changes have occurred in other areas of operation which would affect compliance with the best practices. Such districts shall be reviewed annually by OPPAGA, in addition to the annual financial audit required under section 11.45, Florida Statutes, to determine whether they have attained compliance with the best financial management practices in the areas covered by the plan. Districts that are found to comply with the best financial management practices shall receive a "Seal of Best Financial Management" by the State Board of Education certifying that the district is adhering to the state's best financial management practices. This designation shall be effective for a 3-year period, after which the district school board may reapply for the designation to be granted after another financial management practice review. During the designation period, the district school board shall annually notify OPPAGA, the Auditor General, and the State Board of Education of any changes in policies or operations or any other situations that would not conform to the state's best financial management practices. The State Board of Education may revoke the designation of a district at any time if it determines that a district is no longer complying with the state's best financial management practices.

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

Section 13. In order to implement proviso language in Specific Appropriation 1628 of the 1997-1998 General Appropriations Act, which created the Public Schools Construction Study Commission to study school planning, siting and school concurrency, the Legislature deems it desirable to temporarily suspend the imposition of school concurrency pending the study of the issues arising thereunder. In furtherance thereof, the concurrency requirements of Chapter 163, Florida Statutes, shall not be applied by a local government to evaluate school concurrency before July 1, 1998, unless the county in which concurrency is to be applied has adopted, prior to May 1, 1997, a plan amendment establishing concurrency requirements for public schools, including any subsequent amendments to such public school element. Adoption by the county of the aforesaid shall further entitle any municipality located therein to implement school concurrency without regard to whether such adoption by the municipality occurs before or after May 1, 1997. Nothing herein shall prevent local governments that have not

adopted a public school element prior to May 1, 1997, from continuing to work on agreements under Chapter 163, Florida Statutes.

Section 14. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.