

CHAPTER 99-2

House Bill No. 1037

An act relating to the Florida Statutes; amending ss. 11.149, 11.242, 11.46, 15.182, 20.19, 20.22, 20.23, 20.315, 20.316, 27.0055, 27.365, 27.702, 28.101, 34.201, 39.01, 39.0132, 39.3031, 39.503, 39.821, 49.011, 50.011, 50.031, 50.051, 63.0427, 63.162, 72.011, 90.4025, 90.953, 92.53, 97.1031, 101.62, 101.65, 104.047, 106.082, 110.112, 110.123, 112.19, 112.191, 112.215, 112.3135, 112.3143, 112.352, 112.361, 120.57, 120.595, 120.81, 121.011, 121.021, 121.046, 121.051, 121.091, 121.125, 121.40, 122.03, 125.0104, 154.503, 161.36, 163.01, 163.03, 163.360, 166.231, 175.021, 175.071, 185.06, 186.001, 186.003, 186.006, 186.505, 199.023, 206.97, 206.9915, 212.06, 212.08, 212.12, 212.20, 213.05, 213.053, 215.32, 215.58, 215.96, 216.0315, 216.136, 216.181, 216.236, 216.237, 216.346, 218.21, 218.65, 220.02, 228.053, 228.055, 228.0565, 229.593, 230.2305, 231.261, 232.246, 233.17, 235.05, 235.2197, 235.435, 236.08107, 236.1228, and 236.685, Florida Statutes; reenacting and amending s. 117.05(5), Florida Statutes; and reenacting ss. 90.503(1), 112.313(9), 197.222(1), and 206.59(4), Florida Statutes, pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Section 11.149, Florida Statutes, is amended to read:

11.149 Application ~~Inapplicability of certain sections of ch. 68-35 to the Legislative Auditing Committee.—Sections 11.143, 11.147~~ The amendments to ss. ~~11.141-11.148, 11.23(1), 11.241, 11.242(6)~~ 11.242(6)(a), 11.243(3), 11.246(2)(a), 11.25(1), and 11.26 ~~as created and amended enacted by chapter 68-35, Laws of Florida, shall not apply to the Legislative Auditing Committee or the Auditor General.~~

Reviser's note.—Deletes references to provisions repealed by ch. 96-318, Laws of Florida, and s. 21, ch. 72-178, Laws of Florida; conforms to the repeal of s. 11.242(6)(b)-(g) by s. 27, ch. 90-335, Laws of Florida; and amends the text to reflect that ss. 11.143 and 11.147 were created by ch. 68-35, Laws of Florida.

Section 2. Subsection (6) of section 11.242, Florida Statutes, 1998 Supplement, is amended to read:

11.242 Powers, duties, and functions as to statutory revision.—The powers, duties, and functions of the Office of Legislative Services in the operation and maintenance of a statutory revision program shall be as follows:

(6) To award contracts from time to time for editorial work in the preparation of copy and other necessary material, and for printing ~~as defined in s. 283.60~~; and to pay for such other things as are authorized to be done and performed as part of a statutory revision program under the laws of this state.

Reviser's note.—Amended to conform to the repeal of s. 283.60 by s. 37, ch. 96-318, Laws of Florida.

Section 3. Subsection (2) of section 11.46, Florida Statutes, is amended to read:

11.46 Accounting procedures.—

(2) State officers and agencies referred to in this section mean any state agency as defined in ss. ~~11.40-11.47~~ 11.40-11.48.

Reviser's note.—Amended to conform to the repeal of s. 11.48 by s. 28, ch. 96-318, Laws of Florida.

Section 4. Subsection (1) of section 15.182, Florida Statutes, is amended to read:

15.182 International travel by state-funded musical, cultural, or artistic organizations; notification to Department of State.—

(1) If a musical, cultural, or artistic organization that receives state funding is traveling internationally for a presentation, performance, or other significant public viewing, including an organization associated with a college or university, such organization shall notify the Department of State of its intentions to travel, together with the date, time, and location of each appearance. It is the desire of the Legislature that such cultural exchanges be coordinated with the state's economic development goals. The Secretary of State shall notify Enterprise Florida, Inc., of the intended travel schedule of all such organizations, including, but not limited to, symphonies, orchestras, dance troupes ~~troups~~, bands, choirs, choral groups, drama troupes ~~troups~~, musical performing groups, traveling exhibitions sponsored by museums, and performance artists.

Reviser's note.—Amended to improve clarity.

Section 5. Paragraph (h) of subsection (3), paragraphs (b) and (c) of subsection (8), and subsection (13) of section 20.19, Florida Statutes, 1998 Supplement, are amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(3) OFFICE OF STANDARDS AND EVALUATION.—There is created under the secretary the Office of Standards and Evaluation which has the following responsibilities:

(h) Evaluating and reporting to the Legislature, beginning December 31, 1999, and by October 31 of each subsequent year, on the following issues:

1. The effectiveness of the department's performance contracting system in accomplishing program outcomes and in continuously improving performance.
2. The adequacy of resources and internal controls used by each program and service district to ensure effectiveness and quality of client services provided through standard contracts and other agreements.
3. The effectiveness and quality of contracted services for each client target group, as determined by annual performance reporting and results of quality assurance monitoring.
4. The status of the department's progress in complying with the provisions of this act, including the work of the contract evaluation teams established pursuant to paragraph ~~(10)(g)~~(9)(g).

(8) HEALTH AND HUMAN SERVICES BOARDS.—

(b) At any time after the adoption of initial bylaws pursuant to paragraph (o), a district health and human services board may adopt a bylaw that enlarges the size of the board up to a maximum of 23 members, or otherwise adjusts the size or composition of the board, including a decision to change from a district board to subdistrict boards, or from a subdistrict board to a district board, if in the judgment of the board, such change is necessary to adequately represent the diversity of the population within the district or subdistrict. In the creation of subdistrict boards, the bylaws shall set the size of the board, not to exceed 15 members, and shall set the number of appointments to be made by the Governor and the respective boards of county commissioners in the subdistrict. The Governor shall be given the authority to appoint no fewer than one-fifth of the members. Current members of the district board shall become members of the subdistrict board in the subdistrict where they reside. Vacancies on a newly created subdistrict board shall be filled from among the list of nominees submitted to the subdistrict nominee qualifications review committee pursuant to subsection ~~(9)(8)~~(9)(8).

(c) The appointments by the Governor and the boards of county commissioners are from nominees selected by the appropriate district nominee qualifications review committee pursuant to subsection ~~(9)(8)~~(9)(8). Membership of each board must be representative of its district with respect to age, gender, and ethnicity. For boards having 15 members or fewer, at least two members must be consumers of the department's services. For boards having more than 15 members, there must be at least three consumers on the board. Members must have demonstrated their interest and commitment to, and have appropriate expertise for, meeting the health and family services needs of the community. The Governor shall appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspective of each of the service districts.

(13) CONFORMITY WITH FEDERAL STATUTES AND REGULATIONS.—It is the intent of the Legislature that this section not conflict with any federal statute or implementing regulation governing federal grant-in-aid programs administered by the department. Whenever such a conflict is asserted by the applicable agency of the Federal Government, the secretary of the department shall submit to the United States Department of Health and Human Services, or other applicable federal agency, a request for a favorable policy response or a waiver of the conflicting portions. If such request is approved, as certified in writing by the Secretary of the United States Department of Health and Human Services or head of the other applicable federal agency, the secretary of the department is authorized to make the adjustments in the organization and state service plan prescribed by this section which are necessary for conformity to federal statutes and regulations. Prior to making such adjustments, the secretary shall provide to the Speaker of the House of Representatives and the President of the Senate an explanation and justification of the position of the department and shall outline all feasible alternatives consistent with the provisions of this section. These alternatives may include the state supervision of local service agencies by the department if such agencies are designated by the Governor. The Governor is hereby authorized to designate local agencies of county governments to provide services pursuant to federally required state plans administered by the department. These local agencies shall provide services for and on behalf of the county governments included within the geographic boundaries of the local agency. The board of commissioners of each county within the local agency shall annually approve the service plan to be provided by the local service agency. In order to assure coordination with other health and family services provided to citizens within each county, local service agencies designated by the Governor pursuant to this section shall correspond to the service districts created pursuant to subsection (7)(6). The district administrator of each service district is designated the head of the local service agency. As head of the local service agency, the district administrator shall administer the service programs in conformity with statewide policies, procedures, and guidelines established by the department. The local agency shall administer its program pursuant to a written agreement with the department which:

(a) Indicates that the local agency will conduct its program under the supervision of the department in accordance with the state plan and in compliance with statewide standards as established by the department, including standards of organization and administration.

(b) Sets forth the methods to be followed by the department in its supervision of the local agency, including an evaluation of the effectiveness of the program of the local agency.

(c) Sets forth the basis on which the department participates financially in its locally administered programs.

(d) Indicates whether the local agency will utilize another local public or nonprofit agency in the provision of services and the arrangements for such utilization.

The local agency is responsible for the administration of all aspects of the program within the political subdivisions which it serves. In order to assure uniformity of personnel standards, the local agency shall utilize the state personnel rules and regulations, including provisions related to tenure, selection, appointment, and qualifications of personnel.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 20.19 by s. 120, ch. 98-403, Laws of Florida.

Section 6. Paragraph (a) of subsection (5) of section 20.22, Florida Statutes, is amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(5)(a) The Florida State Group Insurance Council is created within the Division of State Group Insurance for the purpose of providing joint and coordinated oversight of the operation and administration of the state group insurance program. The council shall consist of the state budget director; an individual from the private sector with an extensive health administration background, appointed by the Governor; a member of the Florida Senate, appointed by the President of the Senate; a member of the Florida House of Representatives, appointed by the Speaker of the House of Representatives; a representative of the State University System, appointed by the Board of Regents; the State Insurance Commissioner or his designee; the director of the Division of Retirement; and two representatives of employees and retirees, appointed by the Governor. Members of the council appointed by the Governor shall be appointed to serve terms of 4 years each. Each member of the council shall serve until a successor is appointed. Additionally, the director of the Division of State Group Employee Insurance shall be a non-voting member of the council.

Reviser's note.—Amended to improve clarity and to conform to the redesignation of the Division of State Employees' Insurance as the Division of State Group Insurance by s. 1, ch. 97-92, Laws of Florida.

Section 7. Paragraph (a) of subsection (1) and paragraphs (a) and (d) of subsection (3) of section 20.23, Florida Statutes, 1998 Supplement, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1)(a)1. The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor from among three persons nominated by the Florida Transportation Commission and shall be subject to confirmation by the Senate, ~~except that any secretary that was appointed before October 1, 1987, need not have been nominated by the commission.~~ The secretary shall serve at the pleasure of the Governor.

2. The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad

knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

(3)(a) The central office shall establish departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance and quality performance by the districts and central office units that implement transportation programs. The central office monitoring function shall be based on a plan that clearly specifies what areas will be monitored, activities and criteria used to measure compliance, and a feedback process that assures monitoring findings are reported and deficiencies corrected. The secretary is responsible for ensuring that the central office monitoring function is implemented by October 1, 1990, and that it functions properly thereafter. In conjunction with its monitoring function, the central office shall provide such training and administrative support to the districts as the department determines to be necessary to ensure that the department's programs are carried out in the most efficient and effective manner.

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

- a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;
- b. Performing statewide activities which it is more cost-effective to perform in a central location;
- c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and
- d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

- a. The Office of Administration;
- b. The Office of Policy Planning;
- c. The Office of Design;
- d. The Office of Construction;
- e. The Office of Right-of-Way;
- f. The Office of Toll Operations; and
- g. The Office of Information Systems.

3. Other offices may be established in accordance with s. 20.04(7) ~~20.04(6)~~. The heads of such offices are exempt from part II of chapter 110.

No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

Reviser's note.—Paragraphs (1)(a) and (3)(a) are amended to delete obsolete provisions, and paragraph (3)(d) is amended to conform to the redesignation of subunits of s. 20.04 by s. 3, ch. 94-235, Laws of Florida.

Section 8. Paragraphs (a) and (b) of subsection (6) of section 20.315, Florida Statutes, 1998 Supplement, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(6) FLORIDA CORRECTIONS COMMISSION.—

(a)1. The Florida Corrections Commission is hereby created. The primary focus of the commission shall be on corrections; however, in those instances in which the policies of other components of the criminal justice system affect corrections, the commission shall advise and make recommendations.

2. The commission shall consist of nine members appointed by the Governor subject to confirmation by the Senate. ~~The initial members of the commission shall be appointed by October 1, 1994.~~ Members of the commission shall serve terms of 4 years each, ~~except that four of the initial members shall be appointed for terms of 2 years each.~~ Members must be appointed in such a manner as to equitably represent all geographic areas of the state. Each member of the commission must be a citizen and registered voter of the state. A member of the commission shall represent the public safety needs of the state as a whole and may not subordinate the needs of the state to those of any particular area of the state. The commission's membership should, to the extent possible, contain persons who are knowledgeable about construction, health care, information technology, education, business, food services, law, and inmate and youthful offender rehabilitation and services.

3. The commission is assigned to the office of the Secretary of Corrections for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the Department of Corrections.

(b) The primary functions of the commission are to:

1. Recommend major correctional policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state correctional system and recommend improvements therein to the Governor and the Legislature.

3. Annually perform an in-depth review of community-based intermediate sanctions and recommend to the Governor and the Legislature intergovernmental approaches through the Community Corrections Partnership Act for planning and implementing such sanctions and programs.

4. Perform an in-depth evaluation of the annual budget request of the Department of Corrections, the comprehensive correctional master plan, and the tentative construction program for compliance with all applicable laws and established departmental policies. The commission may not consider individual construction projects, but shall consider methods of accomplishing the department's goals in the most effective, efficient, and business-like manner.

5. Routinely monitor the financial status of the Department of Corrections to assure that the department is managing revenue and any applicable bond proceeds responsibly and in accordance with law and established policy.

6. Evaluate, at least quarterly, the efficiency, productivity, and management of the Department of Corrections, using performance and production standards developed by the department under former subsection (18).

7. Provide public education on corrections and criminal justice issues.

8. Report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by November 1 of each year.

Reviser's note.—Paragraph (6)(a) is amended to delete provisions that have served their purpose. Paragraph (6)(b) is amended to conform to the repeal of former subsection (18) by s. 1, ch. 96-278, Laws of Florida.

Section 9. Paragraph (d) of subsection (6) of section 20.316, Florida Statutes, 1998 Supplement, is amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(6) INFORMATION SYSTEMS.—

(d) The management information system shall, at a minimum:

1. Facilitate case management of juveniles referred to or placed in the department's custody.

2. Provide timely access to current data and computing capacity to support the outcome evaluation activities of the Juvenile Justice Accountability Advisory Board as provided in s. 985.401, legislative oversight, the Juvenile Justice Estimating Conference, and other research.

3. Provide automated support to the quality assurance and program review functions.

4. Provide automated support to the contract management process.

5. Provide automated support to the facility operations management process.

6. Provide automated administrative support to increase efficiency, provide the capability of tracking expenditures of funds by the department or

contracted service providers that are eligible for federal reimbursement, and reduce forms and paperwork.

7. Facilitate connectivity, access, and utilization of information among various state agencies, and other state, federal, local, and private agencies, organizations, and institutions.

8. Provide electronic public access to juvenile justice information, which is not otherwise made confidential by law or exempt from the provisions of s. 119.07(1).

9. Provide a system for the training of information system users and user groups.

Reviser's note.—Amended to conform to the redesignation of the Juvenile Justice Advisory Board as the Juvenile Justice Accountability Board by s. 12, ch. 98-136, Laws of Florida.

Section 10. Subsection (1) of section 27.0055, Florida Statutes, is amended to read:

27.0055 Official court reporters.—

(1) The term “official court reporter” means any individual appointed as an official court reporter pursuant to former chapter 29 prior to the effective date of this act.

Reviser's note.—Amended to conform to the repeal of former chapter 29 by s. 6, ch. 95-286, Laws of Florida.

Section 11. Section 27.365, Florida Statutes, is amended to read:

27.365 Florida Prosecuting Attorneys Association; annual report regarding prosecutions.—By February 1st of each year ~~beginning in 1997~~, the Florida Prosecuting Attorneys Association shall report to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and to the appropriate substantive committees of each chamber regarding prosecutions for offenses during the previous calendar year under ss. 794.011, 794.05, 800.04, and 827.04(3) ~~827.04(4)~~ when the victim of the offense was less than 18 years of age. This report must include, by judicial circuit, the following information in summary format for each offense: the initial charge in each case; the age of the victim and the age of the offender; the charge ultimately prosecuted, if any; whether the case went to trial or was resolved by plea agreement; and either the sentence imposed in each case, or the status of each case on December 31st of the previous year. The names ~~name~~ of sexual offense victims shall not be included in the report.

Reviser's note.—Amended to delete a provision which has served its purpose; to revise the reference to s. 827.04(4) as created by s. 2, ch. 96-215, Laws of Florida, to conform to the redesignation of subunits of s. 827.04 by s. 10, ch. 96-322, Laws of Florida; and to improve clarity and facilitate correct interpretation.

Section 12. Paragraph (b) of subsection (3) of section 27.702, Florida Statutes, 1998 Supplement, is amended to read:

27.702 Duties of the capital collateral regional counsel; reports.—

(3)

(b) The court having jurisdiction over any nonindigent or indigent-but-able-to-contribute defendant who has been receiving the services of the capital collateral regional counsel may assess attorney's fees and costs against the defendant at any stage in the proceedings as the court may deem appropriate. The determination of indigency or nonindigency of any defendant shall be made by the court pursuant to s. 27.52. Liability for the costs of such representation may be imposed in the form of a lien against the property of the nonindigent or indigent-but-able-to-contribute defendant, which lien shall be enforceable as provided in ~~s. 27.56~~ or s. 27.561 or s. 938.29.

Reviser's note.—Amended to conform to the transfer of s. 27.56 to s. 938.29 by s. 22, ch. 97-271, Laws of Florida.

Section 13. Paragraph (b) of subsection (1) of section 28.101, Florida Statutes, 1998 Supplement, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(b) A charge of \$5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Displaced Homemaker Trust Fund created in s. ~~446.50~~ 410.30. If a petitioner does not have sufficient funds with which to pay this fee and signs an affidavit so stating, all or a portion of the fee shall be waived subject to a subsequent order of the court relative to the payment of the fee.

Reviser's note.—Amended to conform to the transfer of s. 410.30 to s. 446.50 by s. 89, ch. 95-418, Laws of Florida.

Section 14. Section 34.201, Florida Statutes, is amended to read:

34.201 County Article V Trust Fund.—The County Article V Trust Fund is hereby created, to be administered by the Supreme Court. Funds shall be credited to the trust fund as provided in chapter 97-235, Laws of Florida SB 722 or similar legislation, for the purposes set forth therein.

Reviser's note.—Amended to substitute a reference to ch. 97-235, Laws of Florida, which was similar legislation to 1997 Senate Bill 722, which did not pass.

Section 15. Subsections (13), (49), and (53) of section 39.01, Florida Statutes, 1998 Supplement, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(13) “Child protection team” means a team of professionals established by the Department of Health to receive referrals from the protective investigators and protective supervision staff of the department and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. A child protection team shall provide consultation to other programs of the department and other persons regarding child abuse, abandonment, or neglect cases.

(49) “Parent” means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of s. 39.503(1) ~~39.4051(4)~~ or s. 63.062(1)(b).

(53) “Physician” means any licensed physician, dentist, podiatric physician ~~podiatrist~~, or optometrist and includes any intern or resident.

Reviser’s note.—Subsection (13) is amended to conform to the transfer of child protection teams to the Department of Health by s. 2, ch. 98-137, Laws of Florida. Subsection (49) is amended to conform to the transfer of s. 39.4051(1) to s. 39.503(1) by s. 64, ch. 98-403, Laws of Florida. Subsection (53) is amended to conform to the redesignation of podiatrists as podiatric physicians by ch. 98-166, Laws of Florida.

Section 16. Paragraph (b) of subsection (4) of section 39.0132, Florida Statutes, 1998 Supplement, is amended to read:

39.0132 Oaths, records, and confidential information.—

(4)

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01415.50165; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser’s note.—Amended to conform to the repeal of s. 415.50165 by s. 173, ch. 98-403, Laws of Florida, and the addition of the definition of “alleged juvenile sexual offender” to s. 39.01 by s. 20, ch. 98-403.

Section 17. Section 39.3031, Florida Statutes, 1998 Supplement, is amended to read:

39.3031 Rules for implementation of ss. ~~39.303 415.5055~~ and ~~39.305 415.5095~~.—The Department of Health, in consultation with the Department of Children and Family Services, shall adopt rules governing the child protection teams and the sexual abuse treatment program pursuant to ss. ~~39.303 415.5055~~ and ~~39.305 415.5095~~, including definitions, organization, roles and responsibilities, eligibility, services and their availability, qualifications of staff, and a waiver-request process.

Reviser's note.—Amended to conform to the transfer of s. 415.5055 to s. 39.303 by s. 40, ch. 98-403, Laws of Florida, and the transfer of s. 415.5095 to s. 39.305 by s. 43, ch. 98-403.

Section 18. Subsection (6) of section 39.503, Florida Statutes, 1998 Supplement, is amended to read:

39.503 Identity or location of parent or legal custodian unknown; special procedures.—

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4) ~~653(c)(B)(4)~~, the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

Reviser's note.—Amended to conform to the correct United States Code location of the referenced material.

Section 19. Subsection (1) of section 415.5077, Florida Statutes (renumbered as section 39.821, 1998 Supplement), is amended to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Guardian Ad Litem Program may use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, and statewide criminal records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for informa-

tion contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has been convicted of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under the provisions of the Florida Statutes specified in s. 435.04(2) or under any similar law in another jurisdiction. Before certifying an applicant to serve as a guardian ad litem, the chief judge of the circuit court may request a federal criminal records check of the applicant through the Federal Bureau of Investigation. In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The program has the sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1). ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

Reviser's note.—Amended to conform to the repeal of s. 119.14 by s. 1, ch. 95-217, Laws of Florida.

Section 20. Subsection (13) of section 49.011, Florida Statutes, 1998 Supplement, is amended to read:

49.011 Service of process by publication; cases in which allowed.—Service of process by publication may be made in any court on any person mentioned in s. 49.021 in any action or proceeding:

(13) For termination of parental rights pursuant to part IX ~~IV~~ of chapter 39.

Reviser's note.—Amended to conform to the redesignation of part IV of chapter 39 as part IX by ch. 98-403, Laws of Florida.

Section 21. Section 50.011, Florida Statutes, is amended to read:

50.011 Where and in what language legal notices to be published.—Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been, a publication in a newspaper printed and published periodically once a week or oftener, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as periodicals second-class matter at a post office in the county where published, for sale to the public generally, available to the public generally for the publication of official or other notices and customarily containing information of a public

character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.

Reviser's note.—Amended to conform to the redesignation of second-class matter as periodicals by the United States Postal Service; see 61 F.R. 10123-10124, March 12, 1996.

Section 22. Section 50.031, Florida Statutes, is amended to read:

50.031 Newspapers in which legal notices and process may be published.—No notice or publication required to be published in a newspaper in the nature of or in lieu of process of any kind, nature, character or description provided for under any law of the state, whether heretofore or hereafter enacted, and whether pertaining to constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof, shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals ~~second-class mail~~ matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published; provided, however, that nothing herein contained shall apply where in any county there shall be no newspaper in existence which shall have been published for the length of time above prescribed. No legal publication of any kind, nature or description, as herein defined, shall be valid or binding or held to be in compliance with the statutes providing for such publication unless the same shall have been published in accordance with the provisions of this section. Proof of such publication shall be made by uniform affidavit.

Reviser's note.—Amended to conform to the redesignation of second-class mail matter as periodicals by the United States Postal Service; see 61 F.R. 10123-10124, March 12, 1996.

Section 23. Section 50.051, Florida Statutes, is amended to read:

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

NAME OF NEWSPAPER

Published (Weekly or Daily)

(Town or City) (County) FLORIDA

STATE OF FLORIDA

COUNTY OF:

Before the undersigned authority personally appeared, who on oath says that he or she is of the, a newspaper published at in County, Florida; that the attached copy of advertisement, being a in the matter of in the Court, was published in said newspaper in the issues of

Affiant further says that the said is a newspaper published at, in said County, Florida, and that the said newspaper has heretofore been continuously published in said County, Florida, each and has been entered as periodicals ~~second-class mail~~ matter at the post office in, in said County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this day of, 19...., by, who is personally known to me or who has produced (type of identification) as identification.

...(Signature of Notary Public)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

...(Notary Public)...

Reviser's note.—Amended to conform to the redesignation of second-class mail matter as periodicals by the United States Postal Service; see 61 F.R. 10123-10124, March 12, 1996.

Section 24. Subsection (1) of section 63.0427, Florida Statutes, 1998 Supplement, is amended to read:

63.0427 Adopted minor's right to continued communication or contact with siblings.—

(1) A child whose parents have had their parental rights terminated and whose custody has been awarded to the department pursuant to s. 39.811 ~~39.469~~, and who is the subject of a petition for adoption under this chapter, shall have the right to have the court consider the appropriateness of post-adoption communication or contact, including, but not limited to, visits, letters and cards, or telephone calls, with his or her siblings who are not included in the petition for adoption. The court shall determine if the best interests of the child support such continued communication or contact and shall consider the following in making such determination:

(a) Any orders of the court pursuant to s. 39.811(7) ~~39.469(7)~~.

(b) Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian ad litem.

- (c) Statements of prospective adoptive parents.
- (d) Any other information deemed relevant and material by the court.

If the court determines that the child's best interests will be served by postadoption communication or contact with any sibling, the court shall so order, stating the nature and frequency for the communication or contact. This order shall be made a part of the final adoption order, but in no event shall continuing validity of the adoption be contingent upon such postadoption communication or contact, nor shall the ability of the adoptive parents and child to change residence within or outside the State of Florida be impaired by such communication or contact.

Reviser's note.—Amended to conform to the transfer of s. 39.469 to s. 39.811 by s. 93, ch. 98-403, Laws of Florida.

Section 25. Subsection (6) of section 63.162, Florida Statutes, is amended to read:

63.162 Hearings and records in adoption proceedings; confidential nature.—

(6) Subject to the provisions of subsection (4) paragraph (d), identifying information regarding the birth parents, adoptive parents, and adoptee may not be disclosed unless a birth parent, adoptive parent, or adoptee has authorized in writing the release of such information concerning himself or herself. Specific names or identifying information must not be given in a family medical history. All nonidentifying information, including the family medical history and social history of the adoptee and the birth parents, when available, must be furnished to the adoptive parents before the adoption becomes final and to the adoptee, upon the adoptee's request, after he or she reaches majority. Upon the request of the adoptive parents, all nonidentifying information obtained before or after the adoption has become final must be furnished to the adoptive parents.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 63.162 following the repeal of former subsection (2) by s. 23, ch. 96-406, Laws of Florida.

Section 26. Paragraph (a) of subsection (1) of section 72.011, Florida Statutes, 1998 Supplement, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1)(a) A taxpayer may contest the legality of any assessment or denial of refund of tax, fee, surcharge, permit, interest, or penalty provided for under s. 125.0104, s. 125.0108, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, chapter 210, chapter 211, chapter 212, chapter 213, chapter 220, chapter 221, s. 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s. 403.7195, ~~s. 403.7197~~, s. 538.09, s. 538.25, chapter 550, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565, chapter 624, or s. 681.117 by filing an action in circuit court; or, alternatively,

the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s. 120.80(14)(b), no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

Reviser's note.—Amended to conform to the repeal of s. 403.7197, by s. 26, ch. 97-94, Laws of Florida.

Section 27. Section 90.4025, Florida Statutes, is amended to read:

90.4025 Admissibility of paternity determination in certain criminal prosecutions.—If a person less than 18 years of age gives birth to a child and the paternity of that child is established under chapter 742, such evidence of paternity is admissible in a criminal prosecution under ss. 794.011, 794.05, 800.04, and 827.04(3) ~~827.04(4)~~.

Reviser's note.—Amended to revise the reference to s. 827.04(4) as created by s. 2, ch. 96-215, Laws of Florida, to conform to the redesignation of subunits of s. 827.04 by s. 10, ch. 96-322, Laws of Florida.

Section 28. Subsection (1) of section 90.503, Florida Statutes, is reenacted to read:

90.503 Psychotherapist-patient privilege.—

(1) For purposes of this section:

(a) A “psychotherapist” is:

1. A person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, who is engaged in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

2. A person licensed or certified as a psychologist under the laws of any state or nation, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

3. A person licensed or certified as a clinical social worker, marriage and family therapist, or mental health counselor under the laws of this state, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction; or

4. Treatment personnel of facilities licensed by the state pursuant to chapter 394, chapter 395, or chapter 397, of facilities designated by the Department of Health and Rehabilitative Services pursuant to chapter 394 as treatment facilities, or of facilities defined as community mental health centers pursuant to s. 394.907(1), who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

(b) A “patient” is a person who consults, or is interviewed by, a psychotherapist for purposes of diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

(c) A communication between psychotherapist and patient is “confidential” if it is not intended to be disclosed to third persons other than:

1. Those persons present to further the interest of the patient in the consultation, examination, or interview.
2. Those persons necessary for the transmission of the communication.
3. Those persons who are participating in the diagnosis and treatment under the direction of the psychotherapist.

Reviser’s note.—Section 19, ch. 93-39, Laws of Florida, purported to amend s. 90.503(1), but failed to republish paragraphs (b) and (c). In the absence of affirmative evidence that the Legislature intended to repeal paragraphs (b) and (c), coupled with the fact that the amendment by s. 19, ch. 93-39, affirmatively evidences an intent to preserve the existing paragraph structure, subsection (1) is reenacted to confirm that the omission was not intended.

Section 29. Subsection (1) of section 90.953, Florida Statutes, is amended to read:

90.953 Admissibility of duplicates.—A duplicate is admissible to the same extent as an original, unless:

(1) The document or writing is a negotiable instrument as defined in s. 673.1041, a security as defined in s. 678.1021 ~~678.102~~, or any other writing that evidences a right to the payment of money, is not itself a security agreement or lease, and is of a type that is transferred by delivery in the ordinary course of business with any necessary endorsement or assignment.

Reviser’s note.—Amended to conform to the repeal of former s. 678.102 by s. 25, ch. 98-11, Laws of Florida, and the creation of s. 678.1021, which also defines “security,” by s. 1, ch. 98-11.

Section 30. Subsection (1) of section 92.53, Florida Statutes, is amended to read:

92.53 Videotaping of testimony of victim or witness under age 16 or person with mental retardation.—

(1) On motion and hearing in camera and a finding that there is a substantial likelihood that a victim or witness who is under the age of 16 or who is a person with mental retardation as defined in s. 393.063(44) ~~393.063(41)~~ would suffer at least moderate emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court, or that such victim or witness is otherwise unavailable as defined in s. 90.804(1), the trial court may order the videotaping of the testimony of the victim or witness in a case, whether civil or

criminal in nature, in which videotaped testimony is to be utilized at trial in lieu of trial testimony in open court.

Reviser's note.—Amended to conform to the redesignation of s. 393.063(41) as s. 393.036(42) by s. 3, ch. 94-154, Laws of Florida, and further redesignation as s. 393.063(43) by s. 1, ch. 95-293, Laws of Florida, and as s. 393.063(44) by s. 23, ch. 98-171, Laws of Florida.

Section 31. Subsections (3) and (4) of section 97.1031, Florida Statutes, are amended to read:

97.1031 Notice of change of residence within the same county, change of name, or change of party.—

(3) When an elector seeks to change party affiliation, the elector must provide a signed, written notification of such intent to the supervisor and obtain a registration identification card reflecting the new party affiliation, subject to the issuance restriction in s. 97.071(4) ~~97.071(3)~~.

(4) The supervisor shall make the necessary changes in the elector's records as soon as practical upon receipt of such notice of a change of address of legal residence, name, or party affiliation and shall issue the new registration identification card as required by s. 97.071(4) ~~97.071(3)~~.

Reviser's note.—Amended to conform to the redesignation of subunits by s. 7, ch. 98-129, Laws of Florida.

Section 32. Paragraph (b) of subsection (4) of section 101.62, Florida Statutes, 1998 Supplement, is amended to read:

101.62 Request for absentee ballots.—

(4)

(b) As soon as the remainder of the absentee ballots are printed, the supervisor shall provide an absentee ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor, unless the elector specifies in the request that:

a. The elector is absent from the county and does not plan to return before the day of the election;

b. The elector is temporarily unable to occupy the residence because of hurricane, tornado, flood, fire, or other emergency or natural disaster; or

c. The elector is in a hospital, assisted-living facility, nursing home, short-term medical or rehabilitation facility, or correctional facility,

in which case the supervisor shall mail the ballot by nonforwardable, return-if-undeliverable mail to any other address the elector specifies in the request.

2. By forwardable mail to voters who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Voting Act.
3. By personal delivery to the elector, upon presentation of the identification required in s. 101.657.
4. By delivery to a designee on election day or up to 4 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 33. Section 101.65, Florida Statutes, 1998 Supplement, is amended to read:

101.65 Instructions to absent electors.—The supervisor shall enclose with each absentee ballot separate printed instructions in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

1. **VERY IMPORTANT.** In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election.
2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.
3. Place your marked ballot in the enclosed secrecy envelope.
4. Insert the secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.
5. Seal the mailing envelope and completely fill out the Voter's Certificate on the back of the mailing envelope.
6. **VERY IMPORTANT.** In order for your absentee ballot to be counted, you must sign your name on the line above (Voter's Signature), place the last

four digits of your Social Security number in the space provided, and your ballot must be witnessed in either of the following manners:

a. One witness, who is a registered voter in the state, must affix his or her signature, printed name, address, voter identification number, and county of registration on the voter's certificate. Each witness is limited to witnessing five ballots per election unless certified as an absentee ballot coordinator. A candidate may not serve as an attesting witness.

b. Any notary or other officer entitled to administer oaths or any Florida supervisor of elections or deputy supervisor of elections, other than a candidate, may serve as an attesting witness.

7. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

8. **FELONY NOTICE.** It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or of fraudulent.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 34. Subsection (4) of section 104.047, Florida Statutes, 1998 Supplement, is amended to read:

104.047 Absentee voting.—

(4) Any person who marks or designates a choice on the ballot of another person, except as provided in s. 101.051, s. 101.655, or s. ~~101.661~~ 101.66, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Reviser's note.—Amended to conform to the redesignation of s. 101.66 by the reviser incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 35. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. ~~110.402~~ 220.402; any person holding a position in the Selected Exempt Service as defined in

s. 110.602; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Reviser's note.—Amended to correct an apparent error. There has never been a s. 220.402, and the Senior Management Service is created in s. 110.402.

Section 36. Subsection (4) of section 110.112, Florida Statutes, is amended to read:

110.112 Affirmative action; equal employment opportunity.—

(4) The state, its agencies and officers shall ensure freedom from discrimination in employment as provided by the Florida Civil Human Rights Act of 1992 1977, by s. 112.044, and by this chapter.

Reviser's note.—Amended to conform to the redesignation of the Human Rights Act of 1997 as the Florida Civil Rights Act of 1992 by s. 1, ch. 92-177, Laws of Florida.

Section 37. Paragraph (b) of subsection (4) and paragraph (c) of subsection (5) of section 110.123, Florida Statutes, 1998 Supplement, are amended to read:

110.123 State group insurance program.—

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(b) If a state officer or full-time state employee selects membership in a health maintenance organization as authorized by paragraph ~~(3)(h)~~~~(3)(g)~~, the officer or employee is entitled to a state contribution toward individual and dependent membership as provided by the Legislature through the appropriations act.

(5) DIVISION OF STATE GROUP INSURANCE; POWERS AND DUTIES.—The division is responsible for the administration of the state group insurance program. The division shall initiate and supervise the program as established by this section and shall adopt such rules as are necessary to perform its responsibilities. To implement this program, the division shall, with prior approval by the Legislature:

(c) Contract on a competitive proposal basis with an insurance carrier or carriers, or professional administrator, determined by the Department of Insurance to be fully qualified, financially sound, and capable of meeting all servicing requirements. Alternatively, the division may self-insure any plan or plans contained in the state group insurance program subject to approval based on actuarial soundness by the Department of Insurance. The division may contract with an insurance company or professional administrator qualified and approved by the Department of Insurance to administer such plan. Before entering into any contract, the division shall advertise for

competitive proposals, and such contract shall be let upon the consideration of the benefits provided in relationship to the cost of such benefits. In determining which entity to contract with, the division shall, at a minimum, consider: the entity's previous experience and expertise in administering group insurance programs of the type it proposes to administer; the entity's ability to specifically perform its contractual obligations in this state and other governmental jurisdictions; the entity's anticipated administrative costs and claims experience; the entity's capability to adequately provide service coverage and sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping, and underwriting, as determined by the division; the entity's accessibility to state employees and providers; the financial solvency of the entity, and using accepted business sector measures of financial performance. The division may contract for medical services which will improve the health or reduce medical costs for employees who participate in the state group insurance plan.

Final decisions concerning the existence of coverage or benefits under the state group health insurance plan shall not be delegated or deemed to have been delegated by the division.

Reviser's note.—Paragraph (4)(b) is amended to conform to the fact that paragraph (3)(e) was redesignated as paragraph (3)(h), rather than paragraph (3)(g), by s. 3, ch. 97-92, Laws of Florida. Paragraph (5)(c) was amended to improve clarity and facilitate correct interpretation.

Section 38. Paragraph (h) of subsection (2) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(2)

(h)1. Any employer who employs a full-time law enforcement, correctional, or correctional probation officer who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. ~~440.02(37)~~ 440.02(34), in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to

be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a law enforcement, correctional, or correctional probation officer or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the officer, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the officer's response to fresh pursuit, the officer's response to what is reasonably believed to be an emergency, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the officer, spouse, or dependent children may otherwise be eligible, except that a person who qualifies under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 440.02 by s. 1, ch. 98-174, Laws of Florida.

Section 39. Paragraph (g) of subsection (2) of section 112.191, Florida Statutes, is amended to read:

112.191 Firefighters; death benefits.—

(2)

(g)1. Any employer who employs a full-time firefighter who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. ~~440.02(37)~~ 440.02(34), in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a firefighter or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the firefighter, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the firefighter, spouse, or dependent children may otherwise be eligible, except that a person who qualifies for benefits under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (b), (c), and (f) shall also be applicable and paid in cases where a firefighter received bodily injury prior to July 1, 1993, and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 440.02 by s. 1, ch. 98-174, Laws of Florida.

Section 40. Paragraph (b) of subsection (11) of section 112.215, Florida Statutes, is amended to read:

112.215 Government employees; deferred compensation program.—

(11) With respect to any funds held pursuant to a deferred compensation plan, any plan provider which is a bank or savings association and which provides time deposit accounts and certificates of deposit as an investment product to the plan participants may, with the approval of the State Board of Administration for providers in the state plan, or with the approval of the appropriate official or body designated by ordinance for a county, municipal, or other political subdivision plan, be exempt from the provisions of chapter 280 requiring it to be a qualified public depository, provided:

(b) Said collateral shall be of the kind permitted by s. ss. 280.13 and 280.14 and shall be pledged in the manner provided for by the applicable provisions of chapter 280.

The Treasurer shall have all the applicable powers provided in ss. 280.04, 280.05, and 280.08 relating to the sale or other disposition of the pledged collateral.

Reviser's note.—Amended to conform to the repeal of s. 280.14 by s. 17, ch. 96-216, Laws of Florida.

Section 41. Subsection (9) of section 112.313, Florida Statutes, is reenacted to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

Reviser's note.—Section 1, ch. 94-277, Laws of Florida, purported to amend s. 112.313(9), but failed to republish paragraph (9)(b). In the absence of affirmative evidence that the Legislature intended to repeal paragraph (9)(b), coupled with the fact that the form of the amendment by s. 1, ch. 94-277, affirmatively evidences an intent to retain the existing paragraph structure of the subsection, subsection (9) is reenacted to confirm that the omission was not intended.

Section 42. Subsection (3) of section 112.3135, Florida Statutes, 1998 Supplement, is amended to read:

112.3135 Restriction on employment of relatives.—

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. ~~252.34(3)~~ 252.34(2), of individuals whose employment would be otherwise prohibited by this section.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 252.34 by s. 10, ch. 93-211, Laws of Florida.

Section 43. Paragraph (a) of subsection (3) of section 112.3143, Florida Statutes, is amended to read:

112.3143 Voting conflicts.—

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. ~~112.312(2)~~ 112.312(3); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

Reviser's note.—Amended to conform to the fact that "agency" is defined in s. 112.312(2), rather than s. 112.312(3).

Section 44. Paragraph (b) of subsection (2) of section 112.352, Florida Statutes, is amended to read:

112.352 Definitions.—The following words and phrases as used in this act shall have the following meaning unless a different meaning is required by the context:

(2) "Retired member" shall mean any person who had both attained age 65 and retired prior to January 1, 1966, and is receiving benefits under any of the following systems:

(b) Supreme Court Justices, District Courts of Appeal Judges and Circuit Judges Retirement System, created by authority of former chapter 123.

Reviser's note.—Amended to conform to the repeal of the provisions of former ch. 123 by s. 20, ch. 97-180, Laws of Florida.

Section 45. Paragraph (b) of subsection (2) of section 112.361, Florida Statutes, is amended to read:

112.361 Additional and updated supplemental retirement benefits.—

(2) DEFINITIONS.—As used in this section, unless a different meaning is required by the context:

(b) "Retired member" means any person:

1. Who either:

a. Had both attained age 65 and retired for reasons other than disability prior to January 1, 1968; or

b. Had retired because of disability prior to January 1, 1968, and who, if he or she had been covered under the Social Security Act, would have been eligible for disability benefits under Title II of the Social Security Act; and

2. Who is receiving benefits under any of the following systems:

a. State and County Officers and Employees Retirement System created by authority of chapter 122;

b. Supreme Court Justices, District Courts of Appeal Judges and Circuit Judges Retirement System created by authority of former chapter 123;

c. Teachers' Retirement System of the state created by authority of chapter 238; or

d. Highway Patrol Pension Trust Fund created by authority of chapter 321.

In addition, "retired member" includes any state official or state employee who retired prior to January 1, 1958, and is receiving benefits by authority of s. 112.05.

Reviser's note.—Amended to conform to the repeal of the provisions of former ch. 123 by s. 20, ch. 97-180, Laws of Florida.

Section 46. Subsection (5) of section 117.05, Florida Statutes, 1998 Supplement, is reenacted and amended to read:

117.05 Use of notary commission; unlawful use; notary fee; seal; duties; employer liability; name change; advertising; photocopies; penalties.—

(5) A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person

whose signature is to be notarized is the individual who is described in and who is executing the instrument. A notary public shall certify in the certificate of acknowledgment or jurat the type of identification, either based on personal knowledge or other form of identification, upon which the notary public is relying.

(a) For purposes of this subsection, “personally knows” means having an acquaintance, derived from association with the individual, which establishes the individual’s identity with at least a reasonable certainty.

(b) For the purposes of this subsection, “satisfactory evidence” means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims to be and any one of the following:

1. The sworn written statement of one credible witness personally known to the notary public or the sworn written statement of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that each of the following is true:

a. That the person whose signature is to be notarized is the person named in the document;

b. That the person whose signature is to be notarized is personally known to the witnesses;

c. That it is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;

d. That it is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess any of the identification documents specified in subparagraph 2.; and

e. That the witnesses do not have a financial interest in nor are parties to the underlying transaction; or

2. Reasonable reliance on the presentation to the notary public of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:

a. A Florida identification card or driver’s license issued by the public agency authorized to issue driver’s licenses;

b. A passport issued by the Department of State of the United States;

c. A passport issued by a foreign government if the document is stamped by the United States Immigration and Naturalization Service;

d. A driver’s license or an identification card issued by a public agency authorized to issue driver’s licenses in a state other than Florida, a territory of the United States, or Canada or Mexico;

- e. An identification card issued by any branch of the armed forces of the United States;
- f. An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;
- g. An inmate identification card issued by the United States Department of Justice, Bureau of Federal Prisons, for an inmate who is in the custody of the department;
- h. A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- i. An identification card issued by the United States Immigration and Naturalization Service.

Reviser's note.—Section 5, ch. 98-246, Laws of Florida, purported to amend s. 117.05 in its entirety, but failed to republish paragraph (5)(a). In the absence of affirmative evidence that the Legislature intended to repeal paragraph (5)(a), it is reenacted to confirm that the omission was not intended. Paragraph (5)(b) is amended to conform to the title of the Bureau of Prisons as provided in 18 U.S.C. s. 4041.

Section 47. Paragraphs (d) and (e) of subsection (1) of section 120.57, Florida Statutes, 1998 Supplement, are amended to read:

120.57 Additional procedures for particular cases.—

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—

(d) Notwithstanding s. ~~120.569(2)(g)~~ 120.569(2)(e), similar fact evidence of other violations, wrongs, or acts is admissible when relevant to prove a material fact in issue, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity. When the state in an administrative proceeding intends to offer evidence of other acts or offenses under this paragraph, the state shall furnish to the party whose substantial interests are being determined and whose other acts or offenses will be the subject of such evidence, no fewer than 10 days before commencement of the proceeding, a written statement of the acts or offenses it intends to offer, describing them and the evidence the state intends to offer with particularity. Notice is not required for evidence of acts or offenses which is used for impeachment or on rebuttal.

(e)1. Any agency action that determines the substantial interests of a party and that is based on an unadopted rule is subject to de novo review by an administrative law judge.

2. The agency action shall not be presumed valid or invalid. The agency must demonstrate that the unadopted rule:

- a. Is within the powers, functions, and duties delegated by the Legislature or, if the agency is operating pursuant to authority derived from the State Constitution, is within that authority;
- b. Does not enlarge, modify, or contravene the specific provisions of law implemented;
- c. Is not vague, establishes adequate standards for agency decisions, or does not vest unbridled discretion in the agency;
- d. Is not arbitrary or capricious;
- e. Is not being applied to the substantially affected party without due notice;
- f. Is supported by competent and substantial evidence; and
- g. Does not impose excessive regulatory costs on the regulated person, county, or city.

3. The recommended and final orders in any proceeding shall be governed by the provisions of paragraphs ~~(k)(4)~~ and ~~(l)(f)~~, except that the administrative law judge's determination regarding the unadopted rule shall not be rejected by the agency unless the agency first determines from a review of the complete record, and states with particularity in the order, that such determination is clearly erroneous or does not comply with essential requirements of law. In any proceeding for review under s. 120.68, if the court finds that the agency's rejection of the determination regarding the unadopted rule does not comport with the provisions of this subparagraph, the agency action shall be set aside and the court shall award to the prevailing party the reasonable costs and a reasonable attorney's fee for the initial proceeding and the proceeding for review.

Reviser's note.—Paragraph (1)(d) is amended to conform to the redesignation of subunits of s. 120.569(2) by s. 4, ch. 98-200, Laws of Florida. Paragraph (1)(e) is amended to conform to the redesignation of subunits of s. 120.57 by s. 5, ch. 98-200, Laws of Florida.

Section 48. Paragraph (c) of subsection (1) of section 120.595, Florida Statutes, is amended to read:

120.595 Attorney's fees.—

(1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.57(1).—

(c) In proceedings pursuant to s. 120.57(1), and upon motion, the administrative law judge shall determine whether any party participated in the proceeding for an improper purpose as defined by this subsection and s. 120.569(2)(e) ~~120.569(2)(e)~~. In making such determination, the administrative law judge shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish

either the factual or legal merits of its position, and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 120.569(2) by s. 4, ch. 98-200, Laws of Florida.

Section 49. Subsection (4) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(4) REGULATION OF PROFESSIONS.—Notwithstanding s. 120.569(2)(g) ~~120.569(2)(e)~~, in a proceeding against a licensed professional or in a proceeding for licensure of an applicant for professional licensure which involves allegations of sexual misconduct:

(a) The testimony of the victim of the sexual misconduct need not be corroborated.

(b) Specific instances of prior consensual sexual activity between the victim of the sexual misconduct and any person other than the offender is inadmissible, unless:

1. It is first established to the administrative law judge in a proceeding in camera that the victim of the sexual misconduct is mistaken as to the identity of the perpetrator of the sexual misconduct; or

2. If consent by the victim of the sexual misconduct is at issue and it is first established to the administrative law judge in a proceeding in camera that such evidence tends to establish a pattern of conduct or behavior on the part of such victim which is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.

(c) Reputation evidence relating to the prior sexual conduct of a victim of sexual misconduct is inadmissible.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 120.569(2) by s. 4, ch. 98-200, Laws of Florida.

Section 50. Paragraph (c) of subsection (3) of section 121.011, Florida Statutes, 1998 Supplement, is amended to read:

121.011 Florida Retirement System.—

(3) PRESERVATION OF RIGHTS.—

(c) Any member of the Supreme Court Justices, District Courts of Appeal Judges, and Circuit Judges' Retirement System, former chapter 123, who terminates his or her service as a justice or judge and accepts employment covered under this chapter and elects to transfer to the Florida Retirement System rather than retain his or her vested rights under former chapter 123

may transfer to the Florida Retirement System. All contributions of such member, including matching contributions, shall be transferred from the judicial retirement trust fund to the system trust fund, and his or her normal retirement benefit shall conform with s. 121.091 from November 30, 1970, or from date of transfer thereafter. Any justice or judge electing to transfer to the Florida Retirement System pursuant to the provisions of this paragraph may, at any time prior to retirement, pay for and receive credit for any service performed in any position covered by the existing systems as defined in this chapter for which he or she has not already received credit. The amount of such payments and the credit received for such service shall be the same as required for a member to obtain credit for prior service pursuant to s. 8(2), chapter 70-112, Laws of Florida, appearing as s. 121.081(2). Any justice or judge who elects to transfer to the Florida Retirement System as provided herein and who retires under the provisions of this chapter shall be eligible for judicial service pursuant to the applicable provisions of law if he or she has had no less than 5 years of judicial service at the time of retirement.

Reviser's note.—Amended to conform to the repeal of the provisions of former ch. 123 by s. 20, ch. 97-180, Laws of Florida.

Section 51. Subsection (2), paragraph (b) of subsection (39), paragraph (a) of subsection (52), and paragraph (a) of subsection (53) of section 121.021, Florida Statutes, 1998 Supplement, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(2) "Existing systems" means the State and County Officers and Employees' Retirement System, the retirement system for school teachers, and the highway patrol pensions and pension trust fund, which are consolidated in s. 121.011(2). On and after July 1, 1972, the term "existing systems" shall also include the retirement system for justices and judges established by former chapter 123 and as consolidated with the Florida Retirement System in s. 121.046.

(39)

(b) "Termination" for a member electing to participate under the Deferred Retirement Option Program occurs when the Deferred Retirement Option Program participant ceases all employment relationships with employers under this system in accordance with s. 121.091(13), but in the event the Deferred Retirement Option Program participant should be employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. ~~121.091(13)(b)5.b.~~ A leave of absence shall constitute a continuation of the employment relationship.

(52) "Regularly established position" is defined as follows:

(a) In a state agency, the term means a position which is authorized and established pursuant to law and is compensated from a salaries appropria-

tion pursuant to s. ~~216.011(1)(z)1. and 2. 216.011(1)(x)1. and 2.~~, or an established position which is authorized pursuant to s. 216.262(1)(a) and (b) and is compensated from a salaries account as provided by rule.

(53) “Temporary position” is defined as follows:

(a) In a state agency, the term means an employment position which is compensated from an other personal services (OPS) account, as provided for in s. ~~216.011(1)(z) 216.011(1)(x).~~

Reviser’s note.—Subsection (2) is amended to conform to the repeal of the provisions of former ch. 123 by s. 20, ch. 97-180, Laws of Florida. Paragraph (39)(b) is amended to conform to the redesignation of subunits of s. 121.091 by s. 1, ch. 98-18, Laws of Florida. Paragraphs (52)(a) and (53)(a) are amended to conform to the redesignation of subunits of s. 216.011 by s. 1, ch. 98-73, Laws of Florida.

Section 52. Subsections (1), (2), and (3) and paragraph (a) of subsection (5) of section 121.046, Florida Statutes, are amended to read:

121.046 Merger of the Judicial Retirement System into the Florida Retirement System Act.—

(1) Any person who is elected or appointed to office in this state as Supreme Court justice, district court of appeal judge, or circuit judge on or after July 1, 1972, shall not be eligible for membership, rights, or any privileges under former chapter 123, the Judicial Retirement System, unless such justice or judge is already a member of said retirement system when elected or appointed to such office.

(2) Former chapter 123, the Judicial Retirement System, is hereby merged as a separate instrument appended to this chapter, the “Florida Retirement System Act,” and the administration of said former chapter 123, the Judicial Retirement System, shall be merged into the administration of the Florida Retirement System.

(3) The rights of members of the Judicial Retirement System established by former chapter 123 shall not be impaired, nor shall their benefits be reduced, by virtue of any provision of this act or any provision of the Florida Retirement System Act, except that if a member of the Judicial Retirement System, otherwise eligible, elects, prior to June 30, 1973, to transfer to the Florida Retirement System, he or she shall be transferred to the Florida Retirement System and, from the date his or her transfer becomes effective, shall be subject to the provisions of the Florida Retirement System established by this chapter, together with any relevant provisions of this act and shall have his or her benefits calculated accordingly.

(5)(a) Effective July 1, 1972, the Judicial Retirement System established by former chapter 123 shall be merged into this chapter, the Florida Retirement System Act, and the Florida Retirement System shall assume:

1. All liabilities related to the payment of benefits to members and their beneficiaries;

2. The administration and payment of benefits now accrued or which may accrue in the future for the benefit of members, beneficiaries and survivors; and

3. All obligations in regard to funding, including any actuarial deficit which may now or hereafter exist in the Judicial Retirement System.

Reviser's note.—Amended to conform to the repeal of the provisions of former ch. 123 by s. 20, ch. 97-180, Laws of Florida.

Section 53. Paragraph (c) of subsection (2) of section 121.051, Florida Statutes, 1998 Supplement, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of members of the Florida State Community College System or charter technical career centers sponsored by members of the Florida State Community College System, as designated in s. 240.3031, who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 240.3195 may elect, in lieu of participating in the Florida Retirement System, to withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program, to be known as the State Community College System Optional Retirement Program, which may be provided by the employing agency under s. 240.3195. Pursuant thereto:

1. The cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class, plus the portion of the contribution rate required by s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the employer to provide for the administration of the optional retirement program. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. Participation in an optional annuity program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12).

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

4. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

5. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 240.3195, the first day of the next full calendar month following the filing of both a written election to withdraw and a completed application for an individual contract or certificate with the program administrator and receipt of such election by the division.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 54. Paragraph (b) of subsection (9) and paragraphs (a), (b), and (d) of subsection (13) of section 121.091, Florida Statutes, 1998 Supplement, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the division. The division may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the division's rules. The division shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. A district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation

period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

4. A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part-time, or as a participant in a phased retirement program within the Florida State Community College System, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 7. A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall

suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

6. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay

retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) with respect to DROP participants.

8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected State and County Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected State and County Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.

9. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in non-elected covered employment may elect to retire while continuing employment in the elective public office, provided that he or she shall be required to terminate his or her nonelected covered employment. Any person who exercises this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

11. From July 1, 1997, through December 31, 1998, notwithstanding the limitations of this subsection, except that any retiree who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits, any retiree of the Florida Retirement System may be reemployed by a covered employer during the 2nd through 12th months of the reemployment limitation period without suspending his or her retirement benefits, provided that the reemployment is for the sole purpose of working on the technical aspects of correcting or replacing the computer systems and programs necessary to resolve the year 2000 date problem for computing which confronts all public employers covered by the Florida Retirement System.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to the provisions of this section, the Deferred Retirement Option

Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP.

(a) Eligibility of member to participate in the DROP.—All active Florida Retirement System members in a regularly established position, and all active members of either the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122 which systems are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in the DROP provided that:

1. The member is not a renewed member of the Florida Retirement System under s. 121.122, or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains 57, or age 50 for Special Risk Class members. For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 12 months after the effective date of this section. A member who fails to make an election within such 12-month limitation period shall forfeit all rights to participate in the DROP. The member shall advise his or her employer and the division in writing of the date on which the DROP shall begin. Such beginning date may be subsequent to the 12-month election period, but must be within the 60-month limitation period as provided in subparagraph (b)1. When establishing eligibility of the member to participate in the DROP or the 60-month maximum participation period, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member with dual normal retirement dates shall be eligible to elect to participate in DROP within 12 months after attaining normal retirement date in either class.

3. The employer of a member electing to participate in the DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in the DROP begins and the date the member's employment and DROP participation will terminate.

4. Simultaneous employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in the DROP shall be permissible provided such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the 60-month limitation period as provided in subparagraph (b)1.

5. A DROP participant may change employers while participating in the DROP, subject to the following:

a. A change of employment must take place without a break in service so that the member receives salary for each month of continuous DROP participation. If a member receives no salary during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division on forms required by the division as to the identity of the new employer.

c. The new employer shall acknowledge, in writing, the participant's DROP termination date, which may be extended but not beyond the original 60-month period provided in subparagraph (b)1., shall acknowledge liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment, and shall be subject to the adjustment required in sub-subparagraph (c)5.d.(e)4.d.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of the DROP.

2. Upon deciding to participate in the DROP, the member shall submit, on forms required by the division:

a. A written election to participate in the DROP;

b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the employer, establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of his employer;

c. A properly completed DROP application for service retirement as provided in this section; and

d. Any other information required by the division.

3. The DROP participant shall be a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122. However, participation in the DROP does not alter the participant's employment status and such employee shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

4. Elected officers shall be eligible to participate in the DROP subject to the following:

a. An elected officer who reaches normal retirement date during a term of office may defer the election to participate in the DROP until the next succeeding term in that office. Such elected officer who exercises this option may participate in the DROP for up to 60 calendar months or a period of no longer than such succeeding term of office, whichever is less.

b. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly, except, however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP shall be null and void as provided in sub-subparagraph (c)5.d.(c)4.d.

c. An elected officer who is dually employed and elects to participate in DROP shall be required to satisfy the definition of termination within the 60-month limitation period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected State and County Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.22, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

(d) Death benefits under the DROP.—

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in sub-subparagraph (c)5.b.(c)4.b.

2. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment

in the DROP, but prior to the first monthly benefit being credited to the DROP, Florida Retirement System benefits shall be paid in accordance with subparagraph (7)(c)1. or subparagraph 2.

4. A DROP participants' survivors shall not be eligible to receive Florida Retirement System death benefits as provided in paragraph (7)(d).

Reviser's note.—Paragraph (9)(b) is amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida. Paragraphs (13)(a), (b), and (d) are amended to conform to the redesignation of subunits of s. 121.091 by s. 1, ch. 98-18, Laws of Florida.

Section 55. Section 121.125, Florida Statutes, is amended to read:

121.125 Credit for workers' compensation payment periods.—A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon return to active employment with a covered employer for 1 calendar month or upon approval for disability retirement in accordance with s. 121.091(4), receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, no member may receive retirement credit for any such period occurring after the earlier of the date maximum medical improvement has been attained as defined in s. ~~440.02(9)~~ 440.02(8) or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required retirement contributions based on the member's rate of monthly compensation immediately prior to his or her receiving workers' compensation payments for retirement credit received by the member.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 440.02 by s. 1, ch. 98-174, Laws of Florida.

Section 56. Paragraph (b) of subsection (13) of section 121.40, Florida Statutes, 1998 Supplement, is amended to read:

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

(13) INVESTMENT OF THE TRUST FUND.—

(b) Costs incurred in carrying out the provisions of this section ~~part~~ shall be deducted from the interest earnings accruing to the trust fund.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 121 is not divided into parts.

Section 57. Subsection (7) of section 122.03, Florida Statutes, is amended to read:

122.03 Contributions; participants; prior service credit.—

(7) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon his or her return to active employment with a covered employer for 1 calendar month or upon his or her approval for disability retirement in accordance with s. 122.09, receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, no member may receive retirement credit for any such period occurring after the earlier of the date maximum medical improvement has been attained as defined in s. ~~440.02(9)~~ 440.02(8) or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required employee and employer retirement contributions based on the member's rate of monthly compensation immediately prior to receipt of workers' compensation payments.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 440.02 by s. 1, ch. 98-174, Laws of Florida.

Section 58. Paragraph (d) of subsection (5) of section 125.0104, Florida Statutes, 1998 Supplement, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

(d) Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph ~~(3)(n)~~~~(3)(e)~~ or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 125.0104(3) by s. 46, ch. 96-397, Laws of Florida.

Section 59. Paragraph (e) of subsection (2) of section 154.503, Florida Statutes, is amended to read:

154.503 Primary Care for Children and Families Challenge Grant Program; creation; administration.—

(2) The department shall:

(e) Coordinate with the primary care program developed pursuant to s. 154.011, the Florida Healthy Kids Corporation program created in s. 624.91, the school health services program created in ss. ~~381.0056~~ ~~402.32~~ and ~~381.0057~~ ~~402.321~~, the Healthy Communities, Healthy People Program created in s. ~~381.734~~ ~~408.604~~, and the volunteer health care provider program developed pursuant to s. 766.1115.

Reviser's note.—Amended to conform to the transfer of s. 402.32 to s. 381.0056 by s. 48, ch. 97-237, Laws of Florida; the transfer of s. 402.321 to s. 381.0057 by s. 49, ch. 97-237; and the transfer of s. 408.604 to s. 381.734 by s. 2, ch. 98-224, Laws of Florida.

Section 60. Section 161.36, Florida Statutes, is amended to read:

161.36 General powers of authority.—In order to most effectively carry out the purposes of this part, the board of county commissioners, as the county beach and shore preservation authority and as the governing body of each beach and shore preservation district established thereby, shall be possessed of broad powers to do all manner of things necessary or desirable in pursuance of this end; provided, however, nothing herein shall diminish or impair the regulatory authority of the department or Division of Marine Resources under s. ~~370.02(2)~~, or part I of this chapter, or the Board of Trustees of the Internal Improvement Trust Fund under chapter 253. Such powers shall specifically include, but not be limited to, the following:

- (1) To make contracts and enter into agreements;
- (2) To sue and be sued;
- (3) To acquire and hold lands and property by any lawful means;
- (4) To exercise the power of eminent domain;
- (5) To enter upon private property for purposes of making surveys, soundings, drillings and examinations, and such entry shall not be deemed a trespass;
- (6) To construct, acquire, operate and maintain works and facilities;
- (7) To make rules and regulations; and
- (8) To do any and all other things specified or implied in this part.

Reviser's note.—Amended to conform to the repeal of s. 370.02 by s. 4, ch. 94-356, Laws of Florida.

Section 61. Paragraph (h) of subsection (3) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(h) "Local government liability pool" means a reciprocal insurer as defined in s. 629.021 ~~or limited reciprocal insurer as defined in s. 629.50~~ or any self-insurance program created pursuant to s. ~~768.28(15)~~ 768.28(14), formed and controlled by counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

Reviser's note.—Amended to conform to the repeal of s. 629.50 by s. 4, ch. 93-259, Laws of Florida, and the redesignation of subunits of s. 768.28 by s. 70, ch. 94-209, Laws of Florida.

Section 62. Paragraph (c) of subsection (1) of section 163.03, Florida Statutes, is amended to read:

163.03 Secretary of Community Affairs; powers and duties; function of Department of Community Affairs with respect to federal grant-in-aid programs.—

(1) The Secretary of Community Affairs shall:

(c) Under the direction of the Governor, administer programs to apply rapidly all available aid to communities stricken by an emergency as defined in s. ~~252.34(3)~~ 252.34(2) and, for this purpose, provide liaison with federal agencies and other public and private agencies.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 252.34 by s. 10, ch. 93-211, Laws of Florida.

Section 63. Subsection (10) of section 163.360, Florida Statutes, 1998 Supplement, is amended to read:

163.360 Community redevelopment plans.—

(10) Notwithstanding any other provisions of this part, when the governing body certifies that an area is in need of redevelopment or rehabilitation as a result of an emergency under s. ~~252.34(3)~~ 252.34(2), with respect to which the Governor has certified the need for emergency assistance under federal law, that area may be certified as a "blighted area," and the governing body may approve a community redevelopment plan and community redevelopment with respect to such area without regard to the provisions of this section requiring a general plan for the county or municipality and a public hearing on the community redevelopment.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 252.34 by s. 10, ch. 93-211, Laws of Florida.

Section 64. Paragraph (b) of subsection (8) of section 166.231, Florida Statutes, 1998 Supplement, is amended to read:

166.231 Municipalities; public service tax.—

(8)

(b) If an area that is nominated as an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, a municipality may enact an ordinance for such exemption; however, the ordinance shall not be effective until such area is designated pursuant to s. 290.0065.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 65. Section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—It is hereby declared by the Legislature that firefighters, as hereinafter defined, perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and firesafety; that they protect both life and property from local emergencies as defined in s. ~~252.34(3)~~ 252.34(2); and that their activities are vital to the public safety. It is further declared that firefighters employed by special fire control districts serve under the same circumstances and perform the same duties as firefighters employed by municipalities and should therefore be entitled to the benefits available under this chapter. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters as hereinafter defined and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal and special district firefighters' pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of the firefighters' pension trust funds. This chapter hereby establishes minimum standards for the operation and funding of municipal and special district firefighters' pension trust fund systems and plans, hereinafter referred to as firefighters' pension trust funds.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 252.34 by s. 10, ch. 93-211, Laws of Florida.

Section 66. Paragraph (b) of subsection (7) of section 175.071, Florida Statutes, 1998 Supplement, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(b) Employ an independent actuary, as defined in s. ~~175.032(4)~~ 175.032(6), at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's or special district's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 175.032 by s. 13, ch. 93-193, Laws of Florida.

Section 67. Paragraph (b) of subsection (6) of section 185.06, Florida Statutes, 1998 Supplement, is amended to read:

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(6) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(b) Employ an independent actuary, as defined in s. 185.02(5) ~~185.02(7)~~, at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 185.02 by s. 40, ch. 93-193, Laws of Florida.

Section 68. Section 186.001, Florida Statutes, is amended to read:

186.001 Short title.—Sections 186.001-186.031, 186.801-186.901 ~~186-801-186.911~~ shall be known and may be cited as the "Florida State Comprehensive Planning Act of 1972."

Reviser's note.—Amended to conform to the repeal of s. 186.911 by s. 1, ch. 95-145, Laws of Florida.

Section 69. Section 186.003, Florida Statutes, 1998 Supplement, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.901 ~~186-801-186.911~~, the term:

(1) "Executive Office of the Governor" means the Office of Planning and Budgeting of the Executive Office of the Governor.

(2) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(3) "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(4) "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

(5) "Regional planning agency" means the regional planning council created pursuant to ss. 186.501-186.515 to exercise responsibilities under ss. 186.001-186.031 and 186.801-186.901 ~~186-801-186.911~~ in a particular region of the state.

(6) "State agency" means each executive department, the Game and Fresh Water Fish Commission, the Parole Commission, and the Department of Military Affairs.

(7) “State agency strategic plan” means the statement of priority directions that an agency will take to carry out its mission within the context of the state comprehensive plan and within the context of any other statutory mandates and authorizations given to the agency, pursuant to ss. 186.021-186.022.

(8) “State comprehensive plan” means the state planning document required in s. 19, Art. III of the State Constitution and published as ss. 187.101 and 187.201.

Reviser’s note.—Amended to conform to the repeal of s. 186.911 by s. 1, ch. 95-145, Laws of Florida.

Section 70. Section 186.006, Florida Statutes, is amended to read:

186.006 Powers and responsibilities of Executive Office of the Governor.—For the purpose of establishing consistency and uniformity in the state and regional planning process and in order to ensure that the intent of ss. 186.001-186.031 and 186.801-186.901 ~~186-801-186.911~~ is accomplished, the Executive Office of the Governor shall:

(1) Identify and monitor on a continuing basis statewide conditions and trends which impact the state.

(2) Prepare, and update or revise regularly, the state comprehensive plan.

(3) Designate the geographic boundaries of comprehensive planning districts.

(4) Designate, and prepare or direct to be prepared, specific data, assumptions, forecasts, and projections for use by each state or regional agency in the preparation of plans.

(5) Coordinate planning among federal, state, regional, and local levels of government and between this state and other states.

(6) Prepare or direct appropriate state or regional agencies to prepare such studies, reports, data collections, or analyses as are necessary or useful in the preparation or revision of the state comprehensive plan, state agency functional plans, or strategic regional policy plans.

(7) Act as the state clearinghouse and designate the regional planning councils as the regional data clearinghouses.

(8) Direct state agencies and regional agencies to prepare and implement, consistent with their authority and responsibilities under law, such plans as are necessary to further the purposes and intent of the state comprehensive plan.

(9) Provide such data and information to public and private agencies and to the public as it may have available.

(10) Using federal, state, local, or private funds, contract with public agencies or private firms or consultants for specialized services or research

facilities, whenever such services or facilities are not otherwise available to it.

(11) Perform such other functions as are necessary to carry out the intent of ss. 186.001-186.031 and 186.801-186.901 ~~186.801-186.911~~.

Reviser's note.—Amended to conform to the repeal of s. 186.911 by s. 1, ch. 95-145, Laws of Florida.

Section 71. Subsection (11) of section 186.505, Florida Statutes, is amended to read:

186.505 Regional planning councils; powers and duties.—Any regional planning council created hereunder shall have the following powers:

(11) To cooperate, in the exercise of its planning functions, with federal and state agencies in planning for emergency management under s. 252.34(4) ~~252.34(3)~~.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 252.34 by s. 10, ch. 93-211, Laws of Florida.

Section 72. Subsection (1) of section 197.222, Florida Statutes, is reenacted to read:

197.222 Prepayment of estimated tax by installment method.—

(1) Taxes collected pursuant to this chapter may be prepaid in installments as provided in this section. A taxpayer may elect to prepay by installments for each tax notice with taxes estimated to be more than \$100. A taxpayer who elects to prepay taxes shall make payments based upon an estimated tax equal to the actual taxes levied upon the subject property in the prior year. Such taxpayer shall complete and file an application for each tax notice to prepay such taxes by installment with the tax collector prior to May 1 of the year in which the taxpayer elects to prepay taxes in installments pursuant to this section. The application shall be made on forms supplied by the department and provided to the taxpayer by the tax collector. After submission of an initial application, a taxpayer shall not be required to submit additional annual applications as long as he or she continues to elect to prepay taxes in installments pursuant to this section. However, if in any year the taxpayer does not so elect, reapplication shall be required for a subsequent election to do so. Installment payments shall be made according to the following schedule:

(a) The first payment of one-quarter of the total amount of estimated taxes due shall be made not later than June 30 of the year in which the taxes are assessed. A 6-percent discount applied against the amount of the installment shall be granted for such payment. The tax collector may accept a late payment of the first installment under this paragraph within 30 days after June 30; such late payment must be accompanied by a penalty of 5 percent of the amount of the installment due.

(b) The second payment of one-quarter of the total amount of estimated taxes due shall be made not later than September 30 of the year in which

the taxes are assessed. A 4.5-percent discount applied against the amount of the installment shall be granted for such payment.

(c) The third payment of one-quarter of the total amount of estimated taxes due, plus one-half of any adjustment made pursuant to a determination of actual tax liability, shall be made not later than December 31 of the year in which taxes are assessed. A 3-percent discount applied against the amount of the installment shall be granted for such payment.

(d) The fourth payment of one-quarter of the total amount of estimated taxes due, plus one-half of any adjustment made pursuant to a determination of actual tax liability, shall be made not later than March 31 following the year in which taxes are assessed. No discount shall be granted for such payment.

(e) For purposes of this section, when an installment due date falls on a Saturday, Sunday, or legal holiday, the due date for the installment shall be the next working day, if the installment payment is delivered to a designated collection office of the tax collector. Taxpayers making such payment shall be entitled to the applicable discount rate authorized in this section.

Reviser's note.—Section 1, ch. 97-17, Laws of Florida, purported to amend s. 197.222(1)(a) as that paragraph was amended by s. 2, ch. 96-288, Laws of Florida, but it failed to incorporate the amendment by ch. 96-288 to the introduction to subsection (1). In the absence of affirmative evidence of legislative intent to repeal the amendment by s. 2, ch. 96-288, subsection (1) is reenacted to confirm that the omission was not intended.

Section 73. Paragraph (h) of subsection (9) of section 199.023, Florida Statutes, 1998 Supplement, is amended to read:

199.023 Definitions.—As used in this chapter:

(9) "Banking organization" means:

(h) A Florida export finance corporation organized and existing pursuant to the provisions of part V ~~VI~~ of chapter 288.

Reviser's note.—Amended to conform to the redesignation of parts in chapter 288 necessitated by the repeal of former part IV by s. 2, ch. 93-205, Laws of Florida.

Section 74. Subsection (4) of section 206.59, Florida Statutes, is reenacted to read:

206.59 Department to make rules; powers.—

(4) The department may assess and collect any tax, penalty, or interest against any person who purchases, receives, or disposes of motor fuel in violation of any provision of this part.

Reviser's note.—Section 13, ch. 96-323, Laws of Florida, purported to amend s. 206.59, as amended by ch. 95-417, Laws of Florida, but did not set out in full the amended section to include subsection (4). In the absence of

affirmative evidence that the Legislature intended to repeal the omitted material, subsection (4) is reenacted to confirm that the omission was not intended.

Section 75. Section 206.97, Florida Statutes, is amended to read:

206.97 Applicability of specified sections of part I.—The provisions of ss. 206.01, 206.02, 206.026, 206.027, 206.028, 206.04, 206.051, 206.052, 206.054, 206.055, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25, 206.27, 206.28, 206.41, ~~206.415~~, 206.416, 206.43, 206.435, 206.44, 206.48, 206.49, 206.56, 206.59, 206.606, 206.608, 206.61, and 206.62 of part I of this chapter shall, as far as lawful or practicable, be applicable to the tax herein levied and imposed and to the collection thereof as if fully set out in this part. However, no provision of any such section shall apply if it conflicts with any provision of this part.

Reviser's note.—Amended to conform to the repeal of s. 206.415 by s. 12, ch. 83-3, Laws of Florida.

Section 76. Subsection (3) of section 206.9915, Florida Statutes, is amended to read:

206.9915 Legislative intent and general provisions.—

(3) The provisions of ss. 206.01, 206.02, 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28, 206.416, 206.42, ~~206.425~~, 206.44, 206.48, 206.49, 206.56, 206.59, 206.86, 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745, 206.94, 206.945, and 206.9815 shall, as far as lawful or practicable, be applicable to the levy and collection of taxes imposed pursuant to this part as if fully set out in this part and made expressly applicable to the taxes imposed herein.

Reviser's note.—Amended to conform to the repeal of s. 206.425 by s. 3, ch. 97-94, Laws of Florida.

Section 77. Paragraph (e) of subsection (1) of section 212.06, Florida Statutes, 1998 Supplement, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(e)1. Notwithstanding any other provision of this chapter, tax shall not be imposed on any vessel registered pursuant to s. ~~327.13~~ ~~327.11~~ by a vessel dealer or vessel manufacturer with respect to a vessel used solely for demonstration, sales promotional, or testing purposes. The term "promotional purposes" shall include, but not be limited to, participation in fishing tournaments. For the purposes of this paragraph, "promotional purposes" means

the entry of the vessel in a marine-related event where prospective purchasers would be in attendance, where the vessel is entered in the name of the dealer or manufacturer, and where the vessel is clearly marked as for sale, on which vessel the name of the dealer or manufacturer is clearly displayed, and which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

2. The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for consideration; when offered for rent or hire as a means of transportation for compensation; or when offered or used to provide transportation for persons solicited through personal contact or through advertisement on a "share expense" basis.

Reviser's note.—Amended to conform to the correct location of the referenced material.

Section 78. Subsection (6), paragraphs (v) and (oo) of subsection (7), subsection (13), and paragraph (f) of subsection (15) of section 212.08, Florida Statutes, 1998 Supplement, are amended to read:

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state

for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(13), and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this ~~chapter part~~ which are for use by the operator of a public-use airport, as defined in s. ~~332.004~~ 322.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees, or which are for use by a public hospital for the provision of such telecommunications services.

(7) MISCELLANEOUS EXEMPTIONS.—

(v) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.

2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term “information services” includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

3. This exemption does not apply to any service warranty transaction taxable under s. 212.0506.

4. This exemption does not apply to any service transaction taxable under s. ~~212.05(1)(j)~~ 212.05(1)(k).

(oo) Complimentary meals.—Also exempt from the tax imposed by this ~~chapter part~~ are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013(4)(a) which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the

transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. All laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 348.65, 348.762, 349.13, ~~374.132~~, 403.1834, 616.07, and 623.09, ~~637.131~~, and ~~637.291~~ and the following Laws of Florida, acts of the year indicated: s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12, chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s. 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and s. 10, chapter 67-1681.

(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—

(f) For the purpose of the exemption provided in this subsection, the term “qualified business” means a business which is:

1. First occupying a new structure to which electrical service, other than that used for construction purposes, has not been previously provided or furnished;
2. Newly occupying an existing, remodeled, renovated, or rehabilitated structure to which electrical service, other than that used for remodeling, renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or
3. Occupying a new, remodeled, rebuilt, renovated, or rehabilitated structure for which a refund has been granted pursuant to paragraph ~~(5)(g)(5)(h)~~.

Reviser’s note.—Subsection (6) and paragraph (7)(oo) are amended to conform to the repeal of part II of chapter 212 by s. 115, ch. 95-417, Laws of Florida, ratified by s. 4, ch. 97-94, Laws of Florida. Subsection (6) is also amended to reference the correct location of the definition of public-use airport. Paragraph (7)(v) is amended to conform to the redesignation of paragraphs of s. 212.05(1) as a result of the repeal of former paragraph (1)(g) by s. 20, ch. 97-94. Subsection (13) is amended to conform to the repeal of s. 374.132 by s. 1, ch. 93-265, Laws of Florida, and the repeal of ss. 637.131

and 637.291 by s. 57, ch. 93-148, Laws of Florida. Paragraph (15)(f) is amended to conform to the repeal of former s. 212.08(5)(e) by s. 10, ch. 92-173, Laws of Florida.

Section 79. Paragraph (c) of subsection (2) of section 212.12, Florida Statutes, 1998 Supplement, is amended to read:

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

(2)

(c) Dealers filing a consolidated return pursuant to s. 212.11(1)(e) ~~212.11(1)(d)~~ shall be subject to the penalty established in paragraph (b) unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (b).

Reviser's note.—Amended to conform to the redesignation of subunits of s. 212.11(1) by s. 11, ch. 94-353, Laws of Florida.

Section 80. Paragraph (e) of subsection (6) of section 212.20, Florida Statutes, 1998 Supplement, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter shall be as follows:

(e) Proceeds from the fees imposed under ss. 212.05(1)(i)3, ~~212.05(1)(j)3~~, and 212.18(3) shall remain with the General Revenue Fund.

Reviser's note.—Amended to conform to the redesignation of paragraphs of s. 212.05(1) as a result of the repeal of former paragraph (1)(g) by s. 20, ch. 97-94, Laws of Florida.

Section 81. Section 213.05, Florida Statutes, is amended to read:

213.05 Department of Revenue; control and administration of revenue laws.—The Department of Revenue shall have only those responsibilities for ad valorem taxation specified to the department in chapter 192, taxation, general provisions; chapter 193, assessments; chapter 194, administrative and judicial review of property taxes; chapter 195, property assessment administration and finance; chapter 196, exemption; chapter 197, tax collections, sales, and liens; chapter 199, intangible personal property taxes; and chapter 200, determination of millage. The Department of Revenue shall have the responsibility of regulating, controlling, and administering all revenue laws and performing all duties as provided in s. 125.0104, the Local Option Tourist Development Act; s. 125.0108, tourist impact tax; chapter 198, estate taxes; chapter 201, excise tax on documents; chapter 203, gross

receipts taxes; chapter 206, motor and other fuel taxes; chapter 211, tax on production of oil and gas and severance of solid minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; ss. 336.021 and 336.025, taxes on motor fuel and special fuel; s. 370.07(3), Apalachicola Bay oyster surcharge; s. 376.11, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; ~~s. 403.7197, advance disposal fees~~; s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; s. ~~624.4621~~ 440.57, group self-insurer's fund premium tax; s. 624.5091, retaliatory tax; s. 624.475, commercial self-insurance fund premium tax; ss. 624.509-624.511, insurance code: administration and general provisions; s. 624.515, State Fire Marshal regulatory assessment; s. 627.357, medical malpractice self-insurance premium tax; s. 629.5011, reciprocal insurers premium tax; and s. 681.117, motor vehicle warranty enforcement.

Reviser's note.—Amended to conform to the repeal of s. 403.7197 by s. 26, ch. 97-94, Laws of Florida, and the transfer of s. 440.57 to s. 624.4621 by s. 79, ch. 93-415, Laws of Florida.

Section 82. Paragraph (l) of subsection (7) of section 213.053, Florida Statutes, 1998 Supplement, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(l) Payment information relative to chapters 199, 201, 212, 220, and 221 to the Office of Tourism, Trade, and Economic Development ~~Department of Commerce~~ in its administration of the tax refund program for qualified defense contractors authorized by s. ~~288.1045~~ 288.104 and the tax refund program for qualified target industry businesses authorized by s. 288.106.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Reviser's note.—Amended to conform to the redesignation of references to the Department of Commerce as the Office of Tourism, Trade, and Economic Development for purposes of s. 288.106 by s. 44, ch. 96-320, Laws of Florida; the repeal of s. 288.104 by s. 8, ch. 96-348, Laws of Florida; and the enactment of a new statute governing the qualified defense contractor tax refund program, s. 288.1045, by s. 1, ch. 96-348.

Section 83. Paragraph (b) of subsection (2) of section 215.32, Florida Statutes, 1998 Supplement, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(b)1. The trust funds shall consist of moneys received by the state which under law or under trust agreement are segregated for a purpose authorized by law. The state agency or branch of state government receiving or collecting such moneys shall be responsible for their proper expenditure as provided by law. Upon the request of the state agency or branch of state government responsible for the administration of the trust fund, the Comptroller may establish accounts within the trust fund at a level considered necessary for proper accountability. Once an account is established within a trust fund, the Comptroller may authorize payment from that account only upon determining that there is sufficient cash and releases at the level of the account.

2. In order to maintain a minimum number of trust funds in the State Treasury, each state agency or the judicial branch may consolidate, if permitted under the terms and conditions of their receipt, the trust funds administered by it; provided, however, the agency or judicial branch employs effectively a uniform system of accounts sufficient to preserve the integrity of such trust funds; and provided, further, that consolidation of trust funds is approved by the Administration Commission or the Chief Justice.

3. All such moneys are hereby appropriated to be expended in accordance with the law or trust agreement under which they were received, subject always to the provisions of chapter 216 relating to the appropriation of funds and to the applicable laws relating to the deposit or expenditure of moneys in the State Treasury.

4.a. Notwithstanding any provision of law restricting the use of trust funds to specific purposes, unappropriated cash balances from selected trust funds may be authorized by the Legislature for transfer to the Budget Stabilization Fund and Working Capital Fund in the General Appropriations Act.

b. This subparagraph does not apply to trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the State Transportation Trust Fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida Retirement Trust Fund; trust funds under the management of the Board of Regents, where such trust funds are for auxiliary enterprises, self-insurance, and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the Comptroller or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the State Constitution.

Reviser's note.—Amended to conform to the title of the fund as provided in numerous references throughout s. 215.32.

Section 84. Subsection (5) of section 215.58, Florida Statutes, is amended to read:

215.58 Definitions.—The following words or terms when used in this act shall have the following meanings:

(5) “Division” shall mean the Division of Bond Finance ~~of said department.~~

Reviser’s note.—Amended to conform to the transfer of the Division of Bond Finance from the Department of General Services to the State Board of Administration by s. 2, ch. 92-279, Laws of Florida.

Section 85. Paragraph (a) of subsection (3) of section 215.96, Florida Statutes, 1998 Supplement, is amended to read:

215.96 Coordinating council and design and coordination staff.—

(3) The coordinating council, assisted by the design and coordination staff, shall have the following duties, powers, and responsibilities pertaining to the Florida Financial Management Information System:

(a) To conduct such studies and to establish committees, workgroups, and teams to develop recommendations for rules, policies, procedures, principles, and standards to the board as necessary to assist the board in its efforts to design, implement, and perpetuate a financial management information system, including, but not limited to, the establishment of common data codes, the development of integrated financial management policies that address the information and management needs of the functional owner subsystems, and the development of a strategic plan pursuant to the requirements set forth in s. 186.022(9). The coordinating council shall make available a copy of the approved plan in writing or through electronic means to each of the coordinating council members, the fiscal committees of the Legislature, ~~the Joint Legislative Information Technology Resources Committee,~~ and any interested person.

Reviser’s note.—Amended to conform to the repeal of s. 11.39, which created the Joint Legislative Information Technology Resource Committee, by s. 5, ch. 98-136, Laws of Florida.

Section 86. Section 216.0315, Florida Statutes, is amended to read:

216.0315 Budgets of state agencies that have international programs.—Each state agency that has an international program funded from the budget of that agency must establish a separate fiscal category for it in the legislative budget request submitted under s. 216.031. ~~In addition, the agency must transmit a copy of the legislative budget request that contains the separate fiscal category for an international program to the Florida International Affairs Commission.~~

Reviser’s note.—Amended to conform to the repeal of s. 288.803, which created the Florida International Affairs Commission, by s. 67, ch. 96-320, Laws of Florida.

Section 87. Paragraph (b) of subsection (9) of section 216.136, Florida Statutes, 1998 Supplement, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(9) JUVENILE JUSTICE ESTIMATING CONFERENCE.—

(b) Principals.—The Executive Office of the Governor, the Office of Economic and Demographic Research, and professional staff who have forecasting expertise from the Department of Juvenile Justice, the Department of Health and Rehabilitative Services Alcohol, Drug Abuse, and Mental Health Program Office, the Department of Law Enforcement, the Senate Appropriations Committee staff, the House of Representatives Appropriations Committee staff, or their designees, are the principals of the Juvenile Justice Estimating Conference. The responsibility of presiding over sessions of the conference shall be rotated among the principals. To facilitate policy and legislative recommendations, the conference may call upon professional staff of the Juvenile Justice Accountability Advisory Board and appropriate legislative staff.

Reviser's note.—Amended to conform to the redesignation of the Juvenile Justice Advisory Board as the Juvenile Justice Accountability Board by s. 12, ch. 98-136, Laws of Florida.

Section 88. Paragraph (d) of subsection (2) of section 216.181, Florida Statutes, 1998 Supplement, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(2) Amendments to the original approved operating budgets for operational and fixed capital outlay expenditures must comply with the following guidelines in order to be approved by the Governor or Administration Commission as provided in this chapter for the executive branch and the Chief Justice for the judicial branch:

(d) For amendments that involve trust funds, there must be adequate and appropriate revenues available in the trust fund and the amendment must be consistent with the laws authorizing such trust funds and the laws relating to the use of the trust funds. However, a trust fund shall not be increased in excess of the original approved budget, except as provided in subsection (11)(10).

Reviser's note.—Amended to conform to the redesignation of subunits of s. 216.181 by s. 6, ch. 97-286, Laws of Florida.

Section 89. Section 216.236, Florida Statutes, is amended to read:

216.236 Innovation Investment Program; funding; recordkeeping and reporting.—The amount of \$1 million of any funds appropriated from the General Revenue Fund for the purpose of funding the Innovation Investment Program shall be available on a payback basis. Innovative project proposals funded on a payback basis shall include the requirements of s. 216.235(5) and, if applicable, s. 216.235(6), and shall be submitted to the department no later than May 15. The State Innovation Committee or its designee shall review and evaluate such proposal as to its technical feasibility. Funds for the innovative project shall be available to the agency on July

1. Any of such funds which are not awarded by July 1 shall be used for funding innovative projects submitted for funding pursuant to s. 216.237 ~~section 3~~. Loans made under this section shall be repaid, without interest, from savings realized by the agency as a result of implementing the innovative project by no later than July 30 of the following fiscal year in which the funds were received by the agency. Any agency awarded funds pursuant to this section shall maintain detailed accounting records showing all expenses, loan transfers, savings, or other financial actions concerning the project. Any savings realized as a result of implementing the innovative project shall be quantified, validated, and verified by the agency. By July 1 of the following fiscal year in which the funds were received, a final report of the results of the implementation of each innovative project shall be submitted by each participating agency to the Governor's Office of Planning and Budgeting and the legislative appropriations committees, along with a budget amendment to reimburse the General Revenue Fund.

Reviser's note.—Amended to facilitate correct interpretation. The reference to section 3 appeared in the second of four sections relating to the innovation investment program; these sections were added to existing C.S. for H.B. 2497 (which became ch. 94-249, Laws of Florida) by Senate Amendment 1B, p. 1469 of the 1994 Senate Journal. Internal references within the material relating to the innovation investment program were not updated to conform to their new placement. Section 3 of that material became s. 53, ch. 94-249, which was codified as s. 216.237.

Section 90. Section 216.237, Florida Statutes, is amended to read:

216.237 Availability of any remaining funds; agency maintenance of accounting records.—Any remaining funds from the General Revenue Fund and trust fund spending authority not awarded to agencies pursuant to s. 216.236 ~~section 2 of this bill~~ shall be available to agencies for innovative projects which generate a cost savings, increase revenue, or improve service delivery. Innovative projects which generate a cost savings shall receive greater consideration when awarding innovation investment funds. Any trust fund authority granted under this program shall be utilized in a manner consistent with the statutory authority for the use of said trust fund. Any savings realized as a result of implementing the innovative project shall be used by the agency to establish an internal innovations fund. State agencies which are awarded funds for innovative projects shall utilize the chart of accounts used by the State Automated Management Accounting System in the manner described in s. 215.93(3). Such chart of accounts shall be developed and amended in consultation with the Department of Banking and Finance and the Executive Office of the Governor to separate and account for the savings that result from the implementation of the innovative projects and to keep track of how the innovative funds are reinvested by the state agency to fund additional innovative projects, which may include, but not be limited to, expenditures for training and information technology resources. Guidelines for the establishment of such internal innovations fund shall be provided by the Department of Management Services. Any agency awarded funds under this section shall maintain detailed accounting records showing all expenses, loan transfers, savings, or other financial actions concerning the project. Any savings realized as a result of

implementing the innovative project shall be quantified, validated, and verified by the agency. A final report of the results of the implementation of each innovative project shall be submitted by each participating agency to the Governor's Office of Planning and Budgeting and the legislative appropriations committees by June 30 of the fiscal year in which the funds were received and ensuing fiscal years for the life of the project.

Reviser's note.—Amended to facilitate correct interpretation. The reference to section 2 appeared in the third of four sections relating to the innovation investment program; these sections were added to existing C.S. for H.B. 2497 (which became ch. 94-249, Laws of Florida) by Senate Amendment 1B, p. 1469 of the 1994 Senate Journal. Internal references within the material relating to the innovation investment program were not updated to conform to their new placement. Section 2 of that material became s. 52, ch. 94-249, which was codified as s. 216.236.

Section 91. Section 216.346, Florida Statutes, is amended to read:

216.346 Contracts between state agencies; restriction on overhead or other indirect costs.—In any contract between state agencies, including any contract involving the State University System or the Florida State Community College System, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect costs or any other costs not required for the payment of direct costs.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 92. Paragraph (b) of subsection (6) of section 218.21, Florida Statutes, is amended to read:

218.21 Definitions.—As used in this part, the following words and terms shall have the meanings ascribed them in this section, except where the context clearly indicates a different meaning:

(6) "Guaranteed entitlement" means the amount of revenue which must be shared with an eligible unit of local government so that:

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; s. 323.16(3), road tax; and s. 206.605, tax on motor fuel; ~~except that for the 1993-1994 fiscal year, any government exercising municipal powers pursuant to s. 6(f), Art. VIII of the State Constitution shall not receive less funds from any such revenue sharing trust fund than the aggregate amount it received from the state in the preceding state fiscal year under the provisions of this part, plus a 7 percent increase in such amount. Effective in the 1994-1995 fiscal year and thereafter,~~ Any government exercising municipal powers under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities

in the preceding fiscal year, plus a percentage increase in such amount equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year.

Reviser's note.—Amended to delete provisions that have served their purpose.

Section 93. Subsections (5) and (6) of section 218.65, Florida Statutes, 1998 Supplement, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year ordinary distributions to the county pursuant to ss. ~~212.20(6)(f)3.~~ ~~212.20(6)(g)3.~~ 218.61, and 218.62. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. ~~212.20(6)(f)4.~~ ~~212.20(6)(g)4.~~, excluding moneys appropriated for supplemental distributions pursuant to subsection (7), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount shall be distributed equally on a per capita basis among the eligible counties.

(6) There is hereby annually appropriated from the Local Government Half-cent Sales Tax Clearing Trust Fund the distribution provided in s. ~~212.20(6)(f)4.~~ ~~212.20(6)(g)4.~~ to be used for emergency and supplemental distributions pursuant to this section.

Reviser's note.—Amended to conform to the repeal of former s. 212.20(6)(c) by s. 23, ch. 96-397, Laws of Florida.

Section 94. Subsection (9) of section 220.02, Florida Statutes, 1998 Supplement, is amended to read:

220.02 Legislative intent.—

(9) It is the intent of the Legislature that the export finance corporation investment credit provided in s. 220.188 be applicable to those corporations, banks, and savings associations which purchase qualified investments in export finance corporations organized under part V ~~VI~~ of chapter 288.

Reviser's note.—Amended to conform to the redesignation of parts of chapter 288 necessitated by the repeal of the provisions of former part IV of chapter 288 by s. 2, ch. 93-205, Laws of Florida.

Section 95. Paragraph (a) of subsection (9) of section 228.053, Florida Statutes, is amended to read:

228.053 Developmental research schools.—

(9) FUNDING.—

(a) Each developmental research school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 236.081 and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for developmental research schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 236.081 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 236.081. Each eligible developmental research school shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 236.081. In addition, each developmental research school shall receive its proportional share of all categorical funds, with the exception of s. ss. 236.083 and 236.0835, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

Reviser's note.—Amended to conform to the repeal of s. 236.0835 by s. 49, ch. 94-232, Laws of Florida.

Section 96. Paragraph (d) of subsection (1) of section 228.055, Florida Statutes, 1998 Supplement, is amended to read:

228.055 Regional autism centers.—

(1) Six regional autism centers are established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(d) The Louis de la Parte Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Okeechobee, Pasco, Pinellas, Polk, St. Lucie, and Sarasota Counties.

Reviser's note.—Amended to conform to the redesignation of the Florida Mental Health Institute as the Louis de la Parte Florida Mental Health Institute by s. 3, ch. 96-196, Laws of Florida.

Section 97. Paragraph (b) of subsection (7) of section 228.0565, Florida Statutes, 1998 Supplement, is amended to read:

228.0565 Deregulated public schools.—

(7) EXEMPTION FROM STATUTES.—

(b) Teachers employed by or under contract to a deregulated public school shall be certified as required by chapter 231. A deregulated public school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals ~~teacher aides~~ in the same manner as defined in chapter 231. A deregulated public school may not employ an individual to provide instructional services or to serve as an education paraprofessional ~~a teacher aide~~ if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

Reviser's note.—Amended to conform to the redesignation of teacher aides by ch. 98-292, Laws of Florida.

Section 98. Subsection (3) of section 229.593, Florida Statutes, 1998 Supplement, is amended to read:

229.593 Florida Commission on Education Reform and Accountability.—

(3) Recognized statewide organizations representing each interest enumerated in this section shall submit no fewer than two nor more than three nominees to the appropriate public official for consideration. The public officials shall appoint members representative of the ethnic, racial, gender, and economic population of the state. The term of each appointed private citizen member shall be for 4 years. A vacancy shall be filled for the remainder of the unexpired term by the person who had appointment jurisdiction of the vacated member. Members shall serve until their successors are duly appointed. ~~Provisions of s. 11.611(8)(b) to the contrary notwithstanding,~~ Private citizen members shall be appointed as provided in this section and are not subject to confirmation by the Senate. Members of the commission may be removed for cause by the appointing authority. Any member who, without cause, fails to attend three consecutive meetings may be removed by the appointing authority.

Reviser's note.—Amended to conform to the repeal of s. 11.611 by s. 5, ch. 91-429, Laws of Florida; ratified by s. 33, ch. 96-318, Laws of Florida.

Section 99. Subsection (2) of section 230.2305, Florida Statutes, is amended to read:

230.2305 Prekindergarten early intervention program.—

(2) ELIGIBILITY.—There is hereby created the prekindergarten early intervention program for children who are 3 and 4 years of age. A prekindergarten early intervention program shall be administered by a district school board and shall receive state funds pursuant to subsection (6)(5). Each public school district shall make reasonable efforts to accommodate the needs of children for extended day and extended year services without compromising the quality of the 6-hour, 180-day program. The school district shall report on such efforts. School district participation in the prekindergarten early intervention program shall be at the discretion of each school district.

(a) At least 75 percent of the children projected to be served by the district program shall be economically disadvantaged 4-year-old children of working parents, including migrant children or children whose parents participate in the WAGES Program. Other children projected to be served by the district program may include any of the following up to a maximum of 25 percent of the total number of children served:

1. Three-year-old and four-year-old children who are referred to the school system who may not be economically disadvantaged but who are abused, prenatally exposed to alcohol or harmful drugs, or from foster homes, or who are marginal in terms of Exceptional Student Education placement.

2. Three-year-old children and four-year-old children who may not be economically disadvantaged but who are eligible students with disabilities and served in an exceptional student education program with required special services, aids, or equipment and who are reported for partial funding in the K-12 Florida Education Finance Program. These students may be funded from prekindergarten early intervention program funds the portion of the time not funded by the K-12 Florida Education Finance Program for the actual instructional time or one full-time equivalent student membership, whichever is the lesser. These students with disabilities shall be counted toward the 25-percent student limit based on full-time equivalent student membership funded part-time by prekindergarten early intervention program funds. Also, 3-year-old or 4-year-old eligible students with disabilities who are reported for funding in the K-12 Florida Education Finance Program in an exceptional student education program as provided in s. 236.081(1)(c) may be mainstreamed in the prekindergarten early intervention program if such programming is reflected in the student's individual educational plan; if required special services, aids, or equipment are provided; and if there is no operational cost to prekindergarten early intervention program funds. Exceptional education students who are reported for maximum K-12 Florida Education Finance Program funding and who are not reported for early intervention funding shall not count against the 75-percent or 25-percent student limit as stated in this paragraph.

3. Economically disadvantaged 3-year-old children.

4. Economically disadvantaged children, children with disabilities, and children at risk of future school failure, from birth to age four, who are served at home through home visitor programs and intensive parent education programs such as the Florida First Start Program.

5. Children who meet federal and state requirements for eligibility for the migrant preschool program but who do not meet the criteria of "economically disadvantaged" as defined in paragraph (b), who shall not pay a fee.

6. After the groups listed in subparagraphs 1., 2., 3., and 4. have been served, 3-year-old and 4-year-old children who are not economically disadvantaged and for whom a fee is paid for the children's participation.

(b) An "economically disadvantaged" child shall be defined as a child eligible to participate in the free lunch program. Notwithstanding any

change in a family's economic status or in the federal eligibility requirements for free lunch, a child who meets the eligibility requirements upon initial registration for the program shall be considered eligible until the child reaches kindergarten age. In order to assist the school district in establishing the priority in which children shall be served, and to increase the efficiency in the provision of child care services in each district, the district shall enter into a written collaborative agreement with other publicly funded early education and child care programs within the district. Such agreement shall be facilitated by the interagency coordinating council and shall set forth, among other provisions, the measures to be undertaken to ensure the programs' achievement and compliance with the performance standards established in subsection (3) and for maximizing the public resources available to each program. In addition, the central agency for state-subsidized child care or the local service district of the Department of Health and Rehabilitative Services shall provide the school district with an updated list of 3-year-old and 4-year-old children residing in the school district who are on the waiting list for state-subsidized child care.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 230.2305 by s. 57, ch. 96-175, Laws of Florida, and s. 6, ch. 97-190, Laws of Florida. Provisions relating to funding are in subsection (6).

Section 100. Subsection (10) of section 231.261, Florida Statutes, 1998 Supplement, is amended to read:

231.261 Education Practices Commission; organization.—

(10) The commission shall be financed from the following: certification fees; fines, penalties, and costs collected pursuant to s. 231.262(8) ~~231.262(7)~~; and general revenue.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 231.262 by s. 15, ch. 98-281, Laws of Florida.

Section 101. Paragraphs (b) and (c) of subsection (7) of section 232.246, Florida Statutes, 1998 Supplement, are amended to read:

232.246 General requirements for high school graduation.—

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

(b) More than one credit in exploratory vocational courses as defined in s. 228.041(22)(a) ~~228.041(22)(a)2~~.

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

Reviser's note.—Amended to conform to the redesignation of subunits of s. 228.041(22) and rearrangement of material within that subsection by s. 9, ch. 97-307, Laws of Florida.

Section 102. Subsection (1) of section 233.17, Florida Statutes, is amended to read:

233.17 Term of adoption for instructional materials.—

(1) The term of adoption of any instructional materials must be an 8-year period beginning on April 1 following the adoption, except for the core subject areas which include mathematics, science, social studies, reading, and literature which shall be for a term not to exceed 6 years beginning on April 1 following the adoption. Any contract for instructional materials may be extended as prescribed in s. ~~233.16(3)~~ 233.16(2). The Commissioner of Education may approve terms of adoption of less than 8 years for materials in content areas which require more frequent revision.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 233.16 by s. 5, ch. 97-285, Laws of Florida.

Section 103. Subsection (2) of section 235.05, Florida Statutes, is amended to read:

235.05 Right of eminent domain.—

(2) The board of trustees may exercise the right of eminent domain as provided in s. 240.319(4)(d) ~~240.319(3)(d)~~.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 240.319 by s. 12, ch. 97-246, Laws of Florida.

Section 104. Paragraphs (a) and (c) of subsection (2) of section 235.2197, Florida Statutes, 1998 Supplement, are amended to read:

235.2197 Florida Frugal Schools Program.—

(2) The "Florida Frugal Schools Program" is created to recognize publicly each district school board that agrees to build frugal yet functional educational facilities and that implements "best financial management practices" when planning, constructing, and operating educational facilities. The State Board of Education shall recognize a district school board as having a Florida Frugal Schools Program if the district requests recognition and satisfies two or more of the following criteria:

(a) The district receives a "Seal of Best Financial Management" as provided in s. ~~230.23025~~ ~~230.2302~~ or implements best financial management practices in the area of educational facilities as evidenced by a partial review under s. 230.2302.

(c) The district school board submits a plan to the Commissioner of Education certifying how the revenues generated by the levy of the capital outlay sales surtax authorized by s. 212.055(7) will be spent. The plan must include at least the following assurances about the use of the proceeds of the surtax and any accrued interest:

1. The district school board will use the surtax and accrued interest only for the fixed capital outlay purposes identified by s. 212.055(7)(d) which will reduce school overcrowding that has been validated by the Department of Education, or for the repayment of bonded indebtedness related to such capital outlay purposes.

2. The district school board will not spend the surtax or accrued interest to pay for operational expenses or for the construction, renovation, or remodeling of any administrative building or any other ancillary facility that is not directly related to the instruction, feeding, or transportation of students enrolled in the public schools.

3. The district school board's use of the surtax and accrued interest will be consistent with the best financial management practices identified and approved under s. ~~230.23025~~ 230.2302.

4. The district school board will apply the educational facilities contracting and construction techniques authorized by s. 235.211 or other construction management techniques to reduce the cost of educational facilities.

5. The district school board will discontinue the surtax levy when the district has provided the survey-recommended educational facilities that were determined to be necessary to relieve school overcrowding; when the district has satisfied any bonded indebtedness incurred for such educational facilities; or when the district's other sources of capital outlay funds are sufficient to provide such educational facilities, whichever occurs first.

6. The district school board will use any excess surtax collections or accrued interest to reduce the discretionary outlay millage levied under s. 236.25(2).

Reviser's note.—Amended to conform to the correct location of material relating to best financial management practices.

Section 105. Paragraph (a) of subsection (4) of section 235.435, Florida Statutes, 1998 Supplement, is amended to read:

235.435 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—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:

(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 Florida 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.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 106. Subsection (1) of section 236.08107, Florida Statutes, 1998 Supplement, is amended to read:

236.08107 Excellent Teaching Program Trust Fund.—

(1) The Excellent Teaching Program Trust Fund is created to be administered by the Department of Education. Funds must be credited to the trust fund as provided in chapter 98-309, Laws of Florida ~~SB 2156 or similar legislation~~, to be used for the purposes set forth therein.

Reviser's note.—Amended to substitute a reference to ch. 98-309, Laws of Florida, which was similar legislation to 1998 Senate Bill 2156, which did not pass.

Section 107. Paragraph (b) of subsection (4) of section 236.1228, Florida Statutes, is amended to read:

236.1228 Accountability program grants.—

(4) STATEWIDE INDICATORS.—

(b) The statewide indicators are:

1. Improve graduation rate.—The statewide goal is to achieve a graduation rate of 85 percent. The graduate rate will be calculated as defined in s. 228.041(40) ~~228.041(41)~~. The district annual graduation rate indicator shall be at least an increase of one percentage point or one-third of the difference between the second preceding year and 85 percent, whichever is greater.

2. Improve dropout rate.—The statewide goal is to achieve a dropout rate in high school of 4 percent or less. The dropout rate will be calculated as defined in s. 228.041(42) ~~228.041(43)~~. The district and high school annual dropout rate indicator for the high school shall be 6 percent or less and the district average shall be 4 percent or less for grades 9 through 12.

3. Improve promotion rate.—The statewide goal is to achieve a 95-percent promotion rate from grade to grade in grades 9 through 12. The district and high school annual promotion rate indicator for the high school from grade to grade in grades 9 through 12 shall be 94 percent or higher and the district average shall be 95 percent or higher for grades 9 through 12.

4. Increase enrollment in and completion of upper level science courses.—The statewide goal is to have 20 percent or more of the high school students enrolled in and completing level 3 science courses, 55 percent or more of the high school students enrolled in level 2 science courses, and 20 percent or less of the high school students enrolled in level 1 science courses. Components of the district and high school annual science enrollment indicator are:

a. For level 3 science courses, the high school shall have 15 percent or more of the grades 9 through 12 students enrolled in level 3 science courses and the district average shall be 20 percent or more of the grades 9 through 12 students enrolled in level 3 science courses;

b. For level 2 science courses, the high school shall have 45 percent or more of the grades 9 through 12 students enrolled in level 2 science courses and the district average shall be 55 percent or more of the grades 9 through 12 students enrolled in level 2 science courses; and

c. For level 1 science courses, the high school shall have 30 percent or less of the grades 9 through 12 students enrolled in level 1 science courses and the district average shall be 20 percent or less of the grades 9 through 12 students enrolled in level 1 science courses.

5. Increase enrollment in and completion of upper level mathematics courses.—The statewide goal is to have 15 percent or more of the high school students enrolled in and completing level 3 mathematics courses, 50 percent or more of the high school students enrolled in level 2 mathematics courses, and 30 percent or less of the high school students enrolled in level 1 mathematics courses. Components of the district and high school annual mathematics enrollment indicator are:

a. For level 3 mathematics courses, the high school shall have 10 percent or more of the grades 9 through 12 students enrolled in level 3 mathematics courses and the district average shall be 15 percent or more of the grades 9 through 12 students enrolled in level 3 mathematics courses;

b. For level 2 mathematics courses, the high school shall have 40 percent or more of the grades 9 through 12 students enrolled in level 2 mathematics courses and the district average shall be 50 percent or more of the grades 9 through 12 students enrolled in level 2 mathematics courses; and

c. For level 1 mathematics courses, the high school shall have 40 percent or less of the grades 9 through 12 students enrolled in level 1 mathematics courses and the district average shall be 30 percent or less of the grades 9 through 12 students enrolled in level 1 mathematics courses.

6. Improve utilization of postsecondary feedback report.—The statewide goal is to reduce annually the high school's graduates who are enrolled in a degree program and are referred for remediation in mathematics, reading, and writing in public colleges and universities by 50 percent of the number for the second preceding year. The district and high school annual referrals for remediation indicators for high school shall be a reduction of 40 percent

or more and the district's average reduction shall be 50 percent or more of the number for the second preceding year.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 228.041 by s. 74, ch. 97-190, Laws of Florida.

Section 108. Subsection (6) of section 236.685, Florida Statutes, is amended to read:

236.685 Educational funding accountability.—

(6) The annual school public accountability report required by ss. 229.592(5) and ~~230.23(16)~~ 230.23(18) must include a school financial report. The purpose of the school financial report is to better inform parents and the public concerning how revenues were spent to operate the school during the prior fiscal year. Each school's financial report must follow a uniform, districtwide format that is easy to read and understand.

(a) Total revenue must be reported at the school, district, and state levels. The revenue sources that must be addressed are state and local funds, other than lottery funds; lottery funds; federal funds; and private donations.

(b) Expenditures must be reported as the total expenditures per unweighted full-time equivalent student at the school level and the average expenditures per full-time equivalent student at the district and state levels in each of the following categories and subcategories:

1. Teachers, excluding substitute teachers, and education paraprofessionals ~~teacher aides~~ who provide direct classroom instruction to students enrolled in programs classified by s. 236.081 as:

- a. Basic programs;
- b. Students-at-risk programs;
- c. Special programs for exceptional students;
- d. Career education programs; and
- e. Adult programs.

2. Substitute teachers.

3. Other instructional personnel, including school-based instructional specialists and their assistants.

4. Contracted instructional services, including training for instructional staff and other contracted instructional services.

5. School administration, including school-based administrative personnel and school-based education support personnel.

6. The following materials, supplies, and operating capital outlay:

- a. Textbooks;
 - b. Computer hardware and software;
 - c. Other instructional materials;
 - d. Other materials and supplies; and
 - e. Library media materials.
7. Food services.
 8. Other support services.
 9. Operation and maintenance of the school plant.

(c) The school financial report must also identify the types of district-level expenditures that support the school's operations. The total amount of these district-level expenditures must be reported and expressed as total expenditures per full-time equivalent student.

As used in this subsection, the term "school" means a "school center" as defined by s. 228.041.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 230.23 by s. 4, ch. 97-190, Laws of Florida, and to the redesignation of teacher aides as education paraprofessionals by ch. 98-292, Laws of Florida.

Approved by the Governor March 25, 1999.

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