CHAPTER 99-385

House Bill No. 591

An act relating to the Department of Transportation; amending s. 20.23, F.S.; expanding the role of the transportation commission; providing loan guarantees for certain businesses; amending s. 206.46, F.S.; increasing the amount that may be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund; requiring Department of Transportation and Department of Community Affairs to jointly review and submit legislation implementing the recommendations of the Transportation and Land Use Committee; creating s. 215.615, F.S.; authorizing the department and local governments to enter into an interlocal agreement to provide financing for fixed guideway projects; amending s. 316.003, F.S.; revising the definition of a motorized bicycle; amending ss. 320.08, 320.083, 320.08035, F.S.; deleting references to motorized bicycles; creating s. 316.0815, F.S.; providing the duty to yield to public transit vehicles reentering the flow of traffic; amending s. 316.1895, F.S.; authorizing local governments to request the Department of Transportation to install and maintain speed zones for federally funded Headstart programs located on roads maintained by the department; amending s. 316.302, F.S.; updating references to the current federal safety regulations; amending s. 316.3025, F.S.; updating references to the current federal safety regulations; amending s. 316.545, F.S.; providing a maximum penalty for operating a commercial motor vehicle when the registration or license plate has not been expired for more than 180 days; amending s. 320.20, F.S., relating to the disposition of motor vehicle license tax moneys; providing for an audit of the ports; amending s. 335.0415, F.S.; clarifying the jurisdiction and responsibility for operation and maintenance of roads; amending s. 335.093, F.S.; authorizing the department to designate public roads as scenic highways; amending s. 337.11, F.S.; authorizing the department to enter into contracts for construction or maintenance of roadway and bridge elements without competitive bidding under certain circumstances; deleting the provision for the owner-controlled insurance plan; amending s. 337.16, F.S.; eliminating intermediate delinquency as grounds for suspension or revocation of a contractor's certificate of qualification to bid on construction contracts in excess of a specified amount; amending s. 337.162, F.S.; providing that department appraisers are not obligated to report violations of state professional licensing laws to the Department of Business and Professional Regulation; amending s. 337.18, F.S.; deleting the schedule of contract amount categories utilized to calculate liquidated damages to be paid by a contractor; allowing the department to adjust the categories; requiring that surety bonds posted by successful bidders on department construction contracts be payable to the department; amending s. 337.185, F.S.; raising the limit for binding arbitration contract disputes; authorizing the secretary of the department to select an alternate or substitute to serve as the department member of the board for any hearing; amending the fee schedule for arbitration to cover the cost of administration

and compensation of the board; authorizing the department to acquire and negotiate for the sale of replacement housing; amending s. 337.25, F.S.; authorizing the department to purchase options to purchase land for transportation facilities; amending s. 337.251, F.S.; authorizing a fixed guideway transportation system operating within the department's right-of-way to operate at any safe speed; amending s. 337.403, F.S.; authorizing the department to contract directly with utility companies for clearing and grubbing; amending s. 373.414, F.S.; requiring OPPAGA to conduct a study regarding wetland mitigation; amending s. 338.223, F.S.; defining the terms "hardship purchase" and "protective purchase"; amending s. 338.229, F.S.; restricting the sale, transfer, lease, or other disposition of operations on any portion of the turnpike system; amending s. 339.2816, F.S.; providing for the small county road assistance program; amending 339.08, F.S.; conforming to bill; amending s. 338.251, F.S.; providing that funds repaid by the Tampa-Hillsborough County Expressway Authority to the Toll Facilities Revolving Trust Fund are to be loaned back to the authority for specified purposes; amending s. 339.155, F.S.; providing planning factors; clarifying the roles of the long-range and short-range components of the Florida Transportation Plan; amending s. 339.175, F.S.; providing planning factors; requiring a recommendation for redesignation; clarifying geographic boundaries of metropolitan planning organizations; providing that metropolitan planning organization plans must provide for the development and operation of intermodal transportation systems and facilities; providing for reapportionment amending s. 341.041, F.S.; authorizing the creation and maintenance of a common self-retention insurance fund to support public transit projects; amending s. 341.302, F.S.; relating to Department of Transportation rail program; amending s. 373.4137, F.S.; providing for the mitigation of impacts to wetlands and other sensitive habitats; amending s. 479.01, F.S.; defining the terms "commercial or industrial zone" and "unzoned commercial or industrial area"; providing that communication towers are not commercial or industrial activities; amending s. 479.07, F.S.; modifying the process for reinstatement of an outdoor advertising sign permit; amending s. 479.16, F.S.; clarifying that certain signs not in excess of 16 square feet are exempt from the permitting process; amending s. 320.0715, F.S.; providing an exemption from the International Registration Plan; amending s. 334.035, F.S.; revising language with respect to the purpose of the Florida Transportation Code; amending s. 334.0445, F.S.; extending the current authorization for the department's model classification plan; amending s. 334.046, F.S.; revising Department of Transportation program objectives; creating s. 334.071, F.S.; providing for the legislative designation of transportation facilities; amending s. 337.025, F.S.; increasing the funds Department of Transportation may spend on innovative projects; amending s. 339.135, F.S.; providing for allocation of certain new highway funds; amending s. 341.053, F.S.; providing for development of an intermodal development plan; amending ss. 348.9401, 348.941, 348.942, and 348.943, F.S.; renaming the St. Lucie County

Expressway Authority as the St. Lucie County Expressway and Bridge Authority and including the Indian River Lagoon Bridge as part of the expressway and bridge system; revising power of the authority to borrow money to conform to new provisions authorizing the issuance of certain bonds; amending s. 348.944, F.S.; authorizing the authority to issue its own bonds and providing requirements therefor; creating s. 348.9495, F.S.; providing exemption from taxation; amending s. 212.055, F.S.; providing flexibility in the charter county transit system surtax; amending s. 348.0004, F.S.; authorizing specified counties to abolish tolls if an offsetting source of local revenue is secured; authorizing an expressway authority to consider proposals for the construction, operation, ownership, or financing of additional expressways; requiring prior consent of the board of county commissioners of each county within the boundaries of the authority; authorizing MPO reapportionment for specified counties; amending s. 73.015, F.S.; requiring presuit negotiation before an action in eminent domain may be initiated under ch. 73 or ch. 74, F.S.; providing requirements for the condemning authority; requiring the condemning authority to give specified notices; requiring a written offer of purchase and appraisal and specifying the time period during which the owner may respond to the offer before a condemnation lawsuit may be filed; providing procedures; allowing a business owner to claim business damage within a specified time period; providing circumstances under which the court must strike a business-damage defense; providing procedures for business-damage claims; providing for nonbinding mediation; requiring the condemning authority to pay reasonable costs and attorney's fees of a property owner; allowing the property owner to file a complaint in circuit court to recover attorney's fees and costs, if the parties cannot agree on the amount; providing that certain evidence is inadmissible in specified proceedings; amending s. 73.071, F.S.; modifying eligibility requirements for business owners to claim business damages; providing for future repeal; amending s. 73.091, F.S.; providing that no prejudgment interest shall be paid on costs or attorney's fees in eminent domain; amending s. 73.092, F.S.; revising provisions relating to attorney's fees for business-damage claims; amending ss. 127.01 and 166.401, F.S.; restricting the exercise by counties and municipalities of specified eminent domain powers granted to the Department of Transportation; repealing ss. 337.27(2), 337.271, 348.0008(2), 348.759(2), 348.957(2), F.S., relating to limiting the acquisition cost of lands and property acquired through eminent domain proceedings by the Department of Transportation, the Orlando-Orange County Expressway Authority, or the Seminole County Expressway Authority, or under the Florida Expressway Authority Act, and relating to the notice that the Department of Transportation must give to a fee owner at the inception of negotiations to acquire land; amending s. 479.15, F.S.; prescribing duties and responsibilities of the Department of Transportation and local governments with respect to relocation of certain signs pursuant to acquisition of land; providing for application; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223,

338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, 479.01, F.S.; conforming cross-references; creating s. 215.616, F.S.; authorizing bonding of federal aid; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015, 337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, 951.05, F.S.; deleting obsolete provisions, and, where appropriate, clarifying provisions; reenacting ss. 336.01, 338.222, 339.135(7)(e), 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; providing an effective date for Senate Bill 182, which creates the Wireless Emergency Telephone System Fund; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and paragraphs (a) and (d) of subsection (3) of section 20.23, Florida Statutes, 1998 Supplement, is amended to read:

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

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation 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 transportation system <u>including highway, transit, rail, seaport, intermodal development, and aviation components of the system</u> and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

5. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission pursuant to s. 334.045.

6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

(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. Major transportation policy initiatives or revisions shall be submitted to the commission for review. 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 a ~~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 Highway Operations ~~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(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.

4. During the construction of a major transportation improvement project or as determined by the district secretary, the department may provide assistance to a business entity significantly impacted by the project if the entity is a for-profit entity that has been in business for 3 years prior to the beginning of construction and has direct or shared access to the transportation project being constructed. The assistance program shall be in the form of additional guarantees to assist the impacted business entity in receiving loans pursuant to Title 13 C.F.R. part 120. However, in no instance shall the combined guarantees be greater than 90 percent of the loan. The department shall adopt rules to implement this subparagraph.

Section 2. Subsections (2) and (3) of section 206.46, Florida Statutes, are amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the revenues deposited into the State Transportation Trust Fund a maximum of 7 ~~6~~ percent in each fiscal year shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276 or at a minimum amount sufficient to pay for the debt service coverage requirements of outstanding bonds. Notwithstanding the 7 ~~6~~ percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service not to exceed $135 ~~$115~~ million. Such transfer shall be payable primarily from the motor and diesel fuel taxes transferred to the State Transportation Trust Fund from the Fuel Tax Collection Trust Fund.

(3) Through fiscal year 1999-2000, a minimum of 14.3 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and chapter 343. Beginning in fiscal year 2000-2001, and each year thereafter, a minimum of 15 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.002-332.007, ~~and~~ chapter 341, and chapter 343.

Section 3. The Department of Community Affairs and the Department of Transportation must jointly review and submit proposed legislative language based upon and implementing the recommendations of the Transportation and Land Use Study Committee, created by the 1998 Legislature, and 1999 Senate Bill 2306, to the Legislature on or before December 1, 1999. Such proposed legislative language must be fiscally feasible within current and projected funding.

Section 4. Section 215.615, Florida Statutes, is created to read:

215.615 Fixed-guideway transportation systems funding.—

(1) The issuance of revenue bonds by the Division of Bond Finance, on behalf of the Department of Transportation, pursuant to s. 11, Art. VII of the State Constitution, is authorized, pursuant to the State Bond Act, to finance or refinance fixed capital expenditures for fixed-guideway transportation systems, as defined in s. 341.031, including facilities appurtenant thereto, costs of issuance, and other amounts relating to such financing or refinancing. Such revenue bonds shall be matched on a 50-50 basis with funds from sources other than revenues of the Department of Transportation, in a manner acceptable to the Department of Transportation. The Division of Bond Finance is authorized to consider innovative financing technologies which may include, but are not limited to, innovative bidding and structures of potential findings that may result in negotiated transactions.

(a) The department and any participating commuter rail authority or regional transportation authority established under chapter 343, local governments, or local governments collectively by interlocal agreement having jurisdiction of a fixed-guideway transportation system may enter into an interlocal agreement to promote the efficient and cost-effective financing or refinancing of fixed-guideway transportation system projects by revenue bonds issued pursuant to this subsection. The terms of such interlocal agreements shall include provisions for the Department of Transportation to request the issuance of the bonds on behalf of the parties; shall provide that each party to the agreement is contractually liable for an equal share of funding an amount equal to the debt service requirements of such bonds; and shall include any other terms, provisions or covenants necessary to the making of and full performance under such interlocal agreement. Repayments made to the department under any interlocal agreement are not pledged to the repayment of bonds issued hereunder, and failure of the local governmental authority to make such payment shall not affect the obligation of the department to pay debt service on the bonds.

(b) Revenue bonds issued pursuant to this subsection shall not constitute a general obligation of, or a pledge of the full faith and credit of, the State of Florida. Bonds issued pursuant to this section shall be payable from funds available pursuant to s. 206.46(3), subject to annual appropriation. The amount of revenues available for debt service shall never exceed a maximum of 2 percent of all state revenues deposited into the State Transportation Trust Fund.

(c) The projects to be financed or refinanced with the proceeds of the revenue bonds issued hereunder are designated as state fixed capital outlay projects for purposes of s. 11(d), Art. VII of the State Constitution, and the specific projects to be financed or refinanced shall be determined by the Department of Transportation in accordance with state law and appropriations from the State Transportation Trust Fund. Each project to be financed with the proceeds of the bonds issued pursuant to this subsection must first be approved by the Legislature by an act of general law.

(d) Any complaint for validation of bonds issued pursuant to this section shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

(e) The state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder, that it will not repeal or impair or amend these provisions in any manner that will materially and adversely affect the rights of such holders as long as bonds authorized by this subsection are outstanding.

(f) This subsection supersedes any inconsistent provisions in existing law.

Notwithstanding this subsection, the lien of revenue bonds issued pursuant to this subsection on moneys deposited into the State Transportation Trust Fund shall be subordinate to the lien on such moneys of bonds issued under ss. 215.605, 320.20, and 215.616, and any pledge of such moneys to pay operating and maintenance expenses under subsection (5) and chapter 348, as may be amended.

(2) To be eligible for participation, fixed-guideway transportation system projects must comply with the major capital investment policy guidelines and criteria established by the Department of Transportation under chapter 341; must be found to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located; and must be included in the work program of the Department of Transportation pursuant to the provisions under s. 339.135. The department shall certify that the expected useful life of the transportation improvements will equal or exceed the maturity date of the debt to be issued.

Section 5. Subsection (2) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(2) BICYCLE.—Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an

electric helper motor ~~rated at~~ not ~~more than 200 watts and~~ capable of propelling the vehicle at a speed of not more than 20 ~~10~~ miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. No person under the age of 16 may operate or ride upon a motorized bicycle.

Section 6. Subsection (1) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES~~,~~ and MOPEDS, ~~MOTORIZED BICYCLES~~.—

(a) Any motorcycle: $10 flat.

(b) Any moped: $5 flat.

~~(c) Any motorized bicycle as defined in s. 316.003(2): $5 flat; however, annual renewal is not required.~~

(c)~~(d)~~ Upon registration of any motorcycle, motor-driven cycle, or moped there shall be paid in addition to the license taxes specified in this subsection a nonrefundable motorcycle safety education fee in the amount of $2.50. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund and be used exclusively to fund a motorcycle driver improvement program implemented pursuant to s. 322.025 or the Florida Motorcycle Safety Education Program established in s. 322.0255.

(d)~~(e)~~ An ancient, antique, or collectible motorcycle: $10 flat.

Section 7. Section 320.0803, Florida Statutes, is amended to read:

320.0803 Moped ~~and motorized bicycle~~ license plates.—

(1) Any other provision of law to the contrary notwithstanding, registration and payment of license taxes in accordance with these requirements and for the purposes stated herein shall in no way be construed as placing any requirements upon mopeds~~, and motorized bicycles as defined in s. 316.003(2),~~ other than the requirements of registration and payment of license taxes.

(2) Each request for a license plate for a moped ~~or a motorized bicycle~~ shall be submitted to the department or its agent on an application form supplied by the department, accompanied by the license tax required in s. 320.08.

(3) The license plate for a moped ~~or motorized bicycle~~ shall be 4 inches wide by 7 inches long.

(4) A license plate for a moped ~~or motorized bicycle~~ shall be of the same material as license plates issued pursuant to s. 320.06; however, the word "Florida" shall be stamped across the top of the plate in small letters.

Section 8. Section 320.08035, Florida Statutes, is amended to read:

320.08035 Persons who have disabilities; reduced dimension license plate.—The owner or lessee of a motorcycle, moped, ~~motorized bicycle,~~ or motorized disability access vehicle who resides in this state and qualifies for a parking permit for a person who has a disability under s. 320.0848, upon application and payment of the appropriate license tax and fees under s. 320.08(1), must be issued a license plate that has reduced dimensions as provided under s. 320.06(3)(a). The plate must be stamped with the international symbol of accessibility after the numeric and alpha serial number of the license plate. The plate entitles the person to all privileges afforded by a disabled parking permit issued under s. 320.0848.

Section 9. Section 316.0815, Florida Statutes, is created to read:

316.0815 Duty to yield to public transit vehicles.—

(1) The driver of a vehicle shall yield the right-of-way to a publicly owned transit bus traveling in the same direction which has signalled and is reentering the traffic flow from a specifically designated pullout bay.

(2) This section does not relieve the driver of a public transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

Section 10. Present subsections (2), (3), (4), (5), (6), (7), (8), and (9) of section 316.1895, Florida Statutes, are redesignated as subsections (3), (4), (5), (6), (7), (8), (9), and (10), respectively, and a new subsection (2) is added to that section to read:

316.1895 Establishment of school speed zones, enforcement; designation.—

(2) Upon request from the appropriate local government, the Department of Transportation shall install and maintain such traffic and pedestrian control devices on state-maintained roads as prescribed in this section for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.

Section 11. Paragraph (b) of subsection (1), paragraphs (e) and (f) of subsection (2) of section 316.302, Florida Statutes, 1998 Supplement, are amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on March 1, 1999 ~~1997~~.

(2)

(e) A person who operates a commercial motor vehicle solely in intrastate commerce is exempt from subsection (1) while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to the first place of processing or storage, or from farm or harvest place directly to market. However, such person must comply with 49 C.F.R. ~~part 391, subpart H and~~ parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and ~~s.~~ 396.9.

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds solely in intrastate commerce and who is not transporting hazardous materials, or who is transporting petroleum products as defined in s. 376.301 ~~s. 376.301(29)~~, is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and ~~s.~~ 396.9.

Section 12. Paragraph (c) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)

(c) A civil penalty of $250 may be assessed for:

1. A violation of the placarding requirements of 49 C.F.R. parts 171-179;

2. A violation of the shipping paper requirements of 49 C.F.R. parts 171-179;

3. A violation of 49 C.F.R. s. 392.10;

4. A violation of 49 C.F.R. s. 397.5 ~~s. 395.5~~;

5. A violation of 49 C.F.R. s. 397.7;

6. A violation of 49 C.F.R. s. 397.13; or

7. A violation of 49 C.F.R. s. 397.15.

Section 13. Paragraph (b) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(2)

(b) The officer shall inspect the license plate or registration certificate of the commercial vehicle, as defined in s. 316.003(66), to determine if its gross weight is in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be 5 cents per pound on the difference between such weights. In those cases when the commercial vehicle, as defined in s. 316.003(66), is being operated over the highways of the state with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of chapter 320, the penalty herein shall apply on the basis of 5 cents per pound on that scaled weight which exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed $1,000. In the case of special mobile equipment as defined in s. 316.003(48), which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of $75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

Section 14. Subsection (4) of section 320.20, Florida Statutes, is amended to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(4) Notwithstanding any other provision of law except subsections (1), (2), and (3), on July 1, 1999 ~~2001~~ and annually thereafter, $10 million shall be deposited in the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided in chapter 311 and for funding seaport intermodal access projects of statewide significance as provided in s. 341.053. Such revenues shall be distributed to any port listed in s. 311.09(1), to be used for funding projects as follows:

(a) For any seaport intermodal access projects that are identified in the 1997-1998 Tentative Work Program of the Department of Transportation, up to the amounts needed to offset the funding requirements of this section; and

(b) For seaport intermodal access projects as described in s. 341.053(5) that are identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3). Funding for such projects shall be on a matching basis as mutually determined by the Florida Seaport Transportation and Economic Development Council and the Department of Transportation, provided a minimum of 25 percent of total project funds shall come from any port funds, local funds, private funds, or specifically earmarked federal funds; or

(c) On a 50-50 matching basis for projects as described in s. 311.07(3)(b).

(d) For seaport intermodal access projects that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks, or similar structures. Funding for such projects shall require a 25 percent match of the funds received pursuant to this subsection. Matching funds shall come from any port funds, federal funds, local funds, or private funds.

Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt shall not constitute a general obligation of the state. This state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal or impair or amend this subsection in any manner which will materially and adversely affect the rights of holders so long as bonds authorized by this subsection are outstanding. Any revenues that are not pledged to the repayment of bonds as authorized by this section may be utilized for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07 and subsection (3). The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects that have been approved pursuant to s. 311.09(5)-(9), or for seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3) and mutually agreed upon by the FSTED Council and the Department of Transportation. All contracts for actual construction of projects authorized by this subsection must include a provision encouraging employment of WAGES participants. The goal for employment of WAGES participants is 25 percent of all new employees employed specifically for the project, unless the Department of Transportation and the Florida Seaport Transportation and Economic Development Council can demonstrate to the satisfaction of the Secretary of Labor and Employment Security that such a requirement would severely hamper the successful completion of the project. In such an instance, the Secretary of Labor and Employment Security shall establish an appropriate percentage of employees that must be WAGES participants. The council and the Department of Transportation are authorized to perform such acts as are required to facilitate and implement the provisions of this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise

powers provided to municipalities or counties in s. 163.01(7)(d) subject to the provisions of chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection is limited to eligible projects listed in this subsection. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection.

Section 15. Prior to the 2000 legislative session, the Auditor General, in cooperation with the Office of Program Policy Analysis and Government Accountability and the Department of Banking and Finance, shall conduct a financial and performance audit of the Florida Seaport Development Program established pursuant to chapter 311 and s. 320.20, Florida Statutes.

Section 16. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road system shall be that which existed on June 10, 1995 ~~exists on July 1, 1995~~.

Section 17. Subsection (1) of section 335.093, Florida Statutes, is amended to read:

335.093 Scenic highway designation.—

(1) The Department of Transportation may, after consultation with other state agencies and local governments, designate public roads as scenic highways ~~on the state highway system~~. Public roads ~~Highways~~ designated as scenic highways are intended to preserve, maintain, and protect a part of Florida's cultural, historical, and scenic routes ~~on the State Highway System~~ for vehicular, bicycle, and pedestrian travel.

Section 18. Paragraph (c) is added to subsection (6) of section 337.11, Florida Statutes, and subsection (16) of that section is amended to read:

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

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations or safety, and only when circumstances dictate rapid completion of the work, the department may, up to the threshold amount provided in s. 287.017 for CATEGORY FOUR, enter into contracts for construction and maintenance without advertising and receiving competitive bids. However, if legislation is enacted by the Legislature which changes the category thresholds, the threshold amount shall remain at $60,000. The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

1. To ensure timely completion of projects or avoidance of undue delay for other projects;

2. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or

3. To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

The department shall make a good-faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. The department shall give consideration to disadvantaged business enterprise participation. However, when the work exists within the limits of an existing contract, the department shall make a good-faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.

~~(16) The department is authorized to undertake and contract to provide an owner controlled insurance plan (OCIP) on any construction project or group of related construction projects if the head of the department determines that an OCIP will be both cost-effective for the department and otherwise in its best interests. Such OCIP may provide insurance coverage for the department and for worker's compensation and employers liability and general liability and builders risk for contractors and subcontractors, for and in conjunction with any or all work performed on such projects. The department may directly purchase such coverage in the manner provided for the purchase of commodities pursuant to s. 287.057, or self-insure, or use a combination thereof, any other statutory provisions or limitations on self-insurance or purchase of insurance notwithstanding. The department's authority hereunder includes the purchase of risk management, risk and loss control, safety management, investigative and claims adjustment services, advancement of funds for payment of claims, and other services reasonably necessary to process and pay claims under and administer the OCIP. In addition to any prequalification required under s. 337.14, no contractor shall be prequalified to bid on an OCIP project unless the contractor's casualty and loss experience and safety record meets the minimum requirements for OCIP coverage issuance on the project, were the contractor to be awarded the project. Exercise of the department's authority under this subsection shall not be deemed a waiver of sovereign immunity.~~

Section 19. Paragraph (a) of subsection (1) of section 337.16, Florida Statutes, is amended to read:

337.16 Disqualification of delinquent contractors from bidding; determination of contractor nonresponsibility; denial, suspension, and revocation of certificates of qualification; grounds; hearing.—

(1) A contractor shall not be qualified to bid when an investigation by the department discloses that such contractor is delinquent on a previously awarded contract, and in such case the contractor's certificate of qualification shall be suspended or revoked. Any contractor whose certificate of qualification is suspended or revoked for delinquency shall also be disapproved as a subcontractor during the period of suspension or revocation,

except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid and before the request for authorization to sublet is presented.

(a) A contractor is delinquent when ~~unsatisfactory progress is being made on a construction project or when~~ the allowed contract time has expired and the contract work is not complete. ~~Unsatisfactory progress shall be determined in accordance with the contract provisions.~~

Section 20. Subsection (2) of section 337.162, Florida Statutes, 1998 Supplement, is amended to read:

337.162 Professional services.—Professional services provided to the department that fall below acceptable professional standards may result in transportation project delays, overruns, and reduced facility life. To minimize these effects and ensure that quality services are received, the Legislature hereby declares that licensed professionals shall be held accountable for the quality of the services they provide to the department.

(2) Any person who is employed by the department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his or her employment, has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to part I of chapter 455 and the state licensing law applicable to that licensee. However, licensees under part II of chapter 475 are exempt from the provisions of s. 455.227(1)(i). The complaint submitted to the Department of Business and Professional Regulation and maintained by the department is confidential and exempt from s. 119.07(1).

Section 21. Subsections (1) and (2) of section 337.18, Florida Statutes, 1998 Supplement, are amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(1) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. For a project for which the contract price is $150,000 or less, the department may waive the requirement for all or a portion of a surety bond if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the department ~~Governor and his or her successors in office~~ and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons furnishing labor, material, equipment, and supplies therefor; however, whenever an improvement, demolition, or removal contract price is $25,000 or less, the security may, in the discretion of the bidder,

be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order.

(2) The department shall provide in its contracts for the determination of default on the part of any contractor for cause attributable to such contractor. The department shall have no liability for anticipated profits for unfinished work on a contract which has been determined to be in default. Every contract let by the department for the performance of work shall contain a provision for payment to the department by the contractor of liquidated damages due to failure of the contractor to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department. The contractual provision shall include a reasonable estimate of the damages that would be incurred by the department as a result of such failure. The department shall establish a schedule of daily liquidated damage charges, based on original contract amounts, for construction contracts entered into by the department, which schedule shall be incorporated by reference into the contract. The department shall update the schedule of liquidated damages at least once every 2 years, but no more often than once a year. The schedule shall, at a minimum, be based on the average construction, engineering, and inspection costs experienced by the department on contracts over the 2 preceding fiscal years. The schedule shall also include anticipated costs of project-related delays and inconveniences to the department and traveling public. Anticipated costs may include, but are not limited to, road user costs, a portion of the projected revenues that will be lost due to failure to timely open a project to revenue-producing traffic, costs resulting from retaining detours for an extended time, and other similar costs. ~~The schedule shall be divided into the following categories, based on the original contract amounts:~~

~~(a) $50,000 and under;~~

~~(b) Over $50,000 but less than $250,000;~~

~~(c) $250,000 or more but less than $500,000;~~

~~(d) $500,000 or more but less than $2.5 million;~~

~~(e) $2.5 million or more but less than $5 million;~~

~~(f) $5 million or more but less than $10 million;~~

~~(g) $10 million or more but less than $15 million;~~

~~(h) $15 million or more but less than $20 million; and~~

~~(i) $20 million and over.~~

Any such liquidated damages paid to the department shall be deposited to the credit of the fund from which payment for the work contracted was authorized.

Section 22. Subsections (1), (2), (3), (7), and (8) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." For the purpose of this section, "claim" shall mean the aggregate of all outstanding claims by a party arising out of a construction contract. Every contractual claim in an amount up to $250,000 ~~$100,000~~ per contract or, at the claimant's option, up to $500,000 ~~$250,000~~ per contract or, upon agreement of the parties, up to $1 million per contract that cannot be resolved by negotiation between the department and the contractor shall be arbitrated by the board after acceptance of the project by the department. As an exception, either party to the dispute may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. The head of the department may select an alternative or substitute to serve as the department member for any hearing or term. Each member shall serve a 2-year term. The board shall elect a chair, each term, who shall be the administrator of the board and custodian of its records.

(3) A hearing may be requested by the department or by a contractor who has a dispute with the department which, under the rules of the board, may be the subject of arbitration. The board shall conduct the hearing within 45 days of the request. The party requesting the board's consideration shall give notice of the hearing to each member. If the board finds that a third party is necessary to resolve the dispute, the board may vote to dismiss the claim, which may thereafter be pursued in accordance with the laws of the state ~~in a court of law~~.

(7) The members ~~member~~ of the board ~~elected by construction companies and the third member of the board~~ may receive compensation for the performance of their duties hereunder, from administrative fees received by the board, except that no employee of the department may receive compensation from the board. The compensation amount shall be determined by the board, but shall not exceed $125 per hour, up to a maximum of $1,000 ~~$750~~ per day for each member authorized to receive compensation. Nothing in this section shall prevent the member elected by construction companies from being an employee of an association affiliated with the industry, even if the sole responsibility of that member is service on the board. Travel expenses for the industry member may be paid by an industry association, if necessary. The board may allocate funds annually for clerical and other administrative services.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed $500 per claim which is $25,000 or less, not to exceed $1,000 per claim which is in excess of $25,000 but not exceeding $50,000, not to exceed $1,500 per claim which is in excess of $50,000 but not exceeding $100,000, not to exceed $2,000 per claim which is in excess of $100,000 but not exceeding $200,000, ~~and~~ not to exceed $3,000 ~~$2,500~~ per claim which is in excess of $200,000 but not exceeding $300,000 ~~$250,000~~, not to exceed $4,000 per claim which is in excess of $300,000 but not exceeding $400,000, and not to exceed $5,000 per claim which is in excess of $400,000, to cover the cost of administration and compensation of the board.

Section 23. Paragraph (a) of subsection (1) and paragraph (i) of subsection (4) of section 337.25, Florida Statutes, are amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(1)(a) The department may purchase, lease, exchange, or otherwise acquire any land, property interests, or buildings or other improvements, including personal property within such buildings or on such lands, necessary to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the department. Such property shall be held in the name of the state.

(4) The department may sell, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. With the exception of any parcel governed by paragraph (c), paragraph (d), paragraph (f), paragraph (g), or paragraph (i), the department shall afford first right of refusal to the local government in the jurisdiction of which the parcel is situated. When such a determination has been made, property may be disposed of in the following manner:

(i) If property was originally acquired specifically to provide replacement housing for persons displaced by ~~federally assisted~~ transportation projects, the department may negotiate for the sale of such property as replacement housing. As compensation, the state shall receive no less than its investment in such properties or fair market value, whichever is lower. It is expressly intended that this benefit be extended only to those persons actually displaced by such project. Dispositions to any other persons must be for fair market value.

Section 24. Subsection (9) is added to section 337.251, Florida Statutes, to read:

337.251 Lease of property for joint public-private development and areas above or below department property.—

(9) Notwithstanding s. 341.327, a fixed-guideway transportation system authorized by the department to be wholly or partially within the depart-

ment's right-of-way pursuant to a lease granted under this section may operate at any safe speed.

Section 25. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road or publicly owned rail corridor that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs (a), ~~and~~ (b), and (c).

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627 of the 84th Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of such project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate such facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of such work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and utility is executed for utility improvement, relocation, or removal work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

Section 26. Subsection (18) is added to section 373.414, Florida Statutes, to read:

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

(18) MITIGATION STUDIES.—

(a) For impacts resulting from activities regulated under part IV of chapter 373, the Legislature finds that successful mitigation performed by the public and private sectors has helped to preserve the state's natural resources.

(b) The Office of Program Policy Analysis and Government Accountability shall study the mitigation options as defined by s. 373.414(1)(b), implemented from 1994 to the present, and issue a report by January 31, 2000. The study shall consider the effectiveness and costs of the current mitigation options in offsetting adverse effects to wetlands and wetland functions, including the application of cumulative impact considerations, and identify, as appropriate, recommendations for statutory or rule changes to increase the effectiveness of mitigation strategies.

Section 27. Paragraph (b) of subsection (2) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(2)

(b) In accordance with the legislative intent expressed in s. 337.273, and after the requirements of paragraph (1)(c) have been met, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The requirements of paragraph (1)(c) do not apply to hardship and protective purchases of advance right-of-way by the department. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. For purposes of this paragraph, the term "hardship purchase" means purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this paragraph, the term "protective purchase" means that a purchase to limit development, building, or other intensification of land uses within the area right-of-way is needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days before final agency acceptance as set forth in s. 119.07(3)(n), which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of a project, including the decision relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and are not to be considered in the determination of environmental feasibility for the project.

Section 28. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to ss. 338.22-338.241 ~~ss. 338.22-338.244~~ that the state will

not limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in ss. 338.22-338.241 ~~ss. 338.22-338.244~~ or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged. In implementing this section, the department is specifically authorized to provide for further restrictions on the sale, transfer, lease, or other disposition or operation of any portion of the turnpike system which reduces the revenue available for payment to bondholders.

Section 29. Subsection (10) of section 338.251, Florida Statutes, 1998 Supplement, is amended to read:

338.251 Toll Facilities Revolving Trust Fund.—The Toll Facilities Revolving Trust Fund is hereby created for the purpose of encouraging the development and enhancing the financial feasibility of revenue-producing road projects undertaken by local governmental entities in a county or combination of contiguous counties.

(10) Any repayment of prior or future advances made from the State Transportation Trust Fund which were used to fund any project phase of a toll facility, shall be deposited in the Toll Facilities Revolving Trust Fund. However, when funds advanced to the Seminole County Expressway Authority pursuant to this section are repaid to the Toll Facilities Revolving Trust Fund by or on behalf of the Seminole County Expressway Authority, those funds shall thereupon and forthwith be appropriated for and advanced to the Seminole County Expressway Authority for funding the design of and the advanced right-of-way acquisition for that segment of the Seminole County Expressway extending from U.S. Highway 17/92 to Interstate Highway 4. Notwithstanding subsection (6), when funds previously advanced to the Orlando-Orange County Expressway Authority are repaid to the Toll Facilities Revolving Trust Fund by or on behalf of the Orlando-Orange County Expressway Authority, those funds may thereupon and forthwith be appropriated for and advanced to the Seminole County Expressway Authority for funding that segment of the Seminole County Expressway extending from U.S. Highway 17/92 to Interstate Highway 4. Any funds advanced to the Tampa-Hillsborough County Expressway Authority pursuant to this section which have been or will be repaid on or after July 1, 1998, to the Toll Facilities Revolving Trust Fund on behalf of the Tampa-Hillsborough County Expressway Authority shall thereupon and forthwith be appropriated for and advanced to the Tampa-Hillsborough County Expressway Authority for funding the design of and the advanced right-of-way acquisition for the Brandon area feeder roads, capital improvements to increase capacity to the expressway system, and Lee Roy Selmon Crosstown Expressway System Widening as authorized under s. 348.565.

Section 30. Section 339.2816, Florida Statutes, is created to read:

339.2816 Small County Road Assistance Program; definitions; program funding; funding eligibility; project contract administration.—

(1) There is created within the Department of Transportation the Small County Road Assistance Program. The purpose of this program is to assist small county governments in resurfacing or reconstructing county roads.

(3) For the purposes of this section the term "small county" means any county that has a population of 75,000 or less according to 1990 federal census data.

(4) Beginning with fiscal year 1999-2000 until fiscal year 2009-2010 up to $25 million annually from the State Transportation Trust Fund may be used for the purposes of funding the Small County Road Assistance Program as described in this section.

(5)(a) Small counties shall be eligible to compete for funds that have been designated for the Small County Road Assistance Program for resurfacing or reconstruction projects on county roads that were part of the county road system on June 10, 1995. Capacity improvements on county roads shall not be eligible for funding under the program.

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, including the amount of local option fuel tax and ad valorem millage rate imposed by the county. The department may also consider the extent to which the county has offered to provide a match of local funds with state funds provided under the program. At a minimum, small counties shall be eligible only if:

1. The county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a), and has imposed an ad valorem millage rate of at least 8 mills, or

2. The county has imposed an ad valorem millage rate of 10 mills.

(c) The following criteria shall be used to prioritize road projects for funding under the program:

1. The primary criterion is the physical condition of the road as measured by the department.

2. As secondary criteria the department may consider:

a. Whether a road is used as an evacuation route.

b. Whether a road has high levels of agricultural travel.

c. Whether a road is considered a major arterial route.

d. Whether a road is considered a feeder road.

e. Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the department.

(6) The department is authorized to administer contracts on behalf of a county selected to receive funding for a project under this section. All projects funded under this section shall be included in the department's work program developed pursuant to s. 339.135.

Section 31. Present paragraph (i) of subsection (2) of section 339.08, Florida Statutes, is redesignated as paragraph (j) and a new paragraph (i) is added to that subsection to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(2) These rules must restrict the use of such moneys to the following purposes:

(i) To pay the cost of county road projects selected in accordance with the Small County Road Assistance Program created in s. 339.2816.

Section 32. Section 339.155, Florida Statutes, is amended to read:

339.155 Transportation planning.—

(1) THE FLORIDA TRANSPORTATION PLAN.—The department shall develop and annually update a statewide transportation plan, to be known as the Florida Transportation Plan. The plan shall be designed so as to be easily read and understood by the general public.

~~(1) PURPOSE.—~~The purpose of the Florida Transportation Plan is to establish and define the state's long-range transportation goals and objectives ~~of the department~~ to be accomplished over a period of at least 20 years within the context of the State Comprehensive Plan and any other statutory mandates and authorizations. The Florida Transportation Plan shall consider the needs of the entire state transportation system and examine the use of all modes of transportation to effectively and efficiently meet such needs ~~given to the department. The plan shall define the relationship between the long-range goals and the short-range objectives, and specify those objectives against which the department's achievement of such goals will be measured. The plan shall provide a policy framework within which the department's legislative budget request, the strategic information resource management plan, and the work program are developed.~~

(2) SCOPE OF PLANNING PROCESS ~~DEVELOPMENT CRITERIA~~.—

(a) The ~~Florida Transportation Plan shall consider the needs of the entire state transportation system, examine the use of all modes of transportation to effectively and efficiently meet such needs, and provide for the interconnection of all types of modes in a comprehensive intermodal transportation system. In developing the Florida Transportation Plan, the~~ department shall carry out a transportation planning process that provides for consideration of projects and strategies that will ~~consider the following~~:

1. Support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

2. Increase the safety and security of the transportation system for motorized and nonmotorized users;

3. Increase the accessibility and mobility options available to people and for freight;

4. Protect and enhance the environment, promote energy conservation, and improve quality of life;

5. Enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

(b) Additionally, the department shall consider:

1. With respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

2. The concerns of Indian tribal governments and federal land management agencies that have jurisdiction over land within the boundaries of Florida; and

3. Coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

(c)~~(a)~~ The results of the management systems required pursuant to federal laws and regulations.

(d)~~(b)~~ Any federal, state, or local energy use goals, objectives, programs, or requirements.

(e)~~(c)~~ Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the state.

(f)~~(d)~~ International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

(g)~~(e)~~ The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

(h)~~(f)~~ Consistency of the plan, to the maximum extent feasible, with strategic regional policy plans, metropolitan planning organization plans, and approved local government comprehensive plans so as to contribute to the management of orderly and coordinated community development.

(i)~~(g)~~ Connectivity between metropolitan areas within the state and with metropolitan areas in other states.

(j)~~(h)~~ Recreational travel and tourism.

(k)~~(i)~~ Any state plan developed pursuant to the Federal Water Pollution Control Act.

(l)~~(j)~~ Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

(m)~~(k)~~ The total social, economic, energy, and environmental effects of transportation decisions on the community and region.

(n)~~(l)~~ Methods to manage traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant vehicle travel.

(o)~~(m)~~ Methods to expand and enhance transit services and to increase the use of such services.

(p)~~(n)~~ The effect of transportation decisions on land use and land development, including the need for consistency between transportation decision-making and the provisions of all applicable short-range and long-range land use and development plans.

(q)~~(o)~~ Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

(r)~~(p)~~ Preservation and management of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identification of those corridors for which action is most needed to prevent destruction or loss.

(s)~~(q)~~ Future, as well as existing, needs of the state transportation system.

(t)~~(r)~~ Methods to enhance the efficient movement of commercial motor vehicles.

(u)~~(s)~~ The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

(v)~~(t)~~ Investment strategies to improve adjoining state and local roads that support rural economic growth and tourism development, federal agency renewable resources management, and multipurpose land management practices, including recreation development.

(w)~~(u)~~ The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the state.

(x)~~(v)~~ A seaport or airport master plan, which has been incorporated into an approved local government comprehensive plan, and the linkage of transportation modes described in such plan which are needed to provide for the movement of goods and passengers between the seaport or airport and the other transportation facilities.

(y)~~(w)~~ The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses.

(z)~~(x)~~ The integration of any proposed system into all other types of transportation facilities in the community.

(3) FORMAT, SCHEDULE, AND REVIEW.—The Florida Transportation Plan shall be a unified, concise planning document that clearly defines the state's long-range transportation goals and objectives and documents the department's short-range objectives developed to further such goals and objectives. The plan shall include a glossary that clearly and succinctly defines any and all phrases, words, or terms of art included in the plan, with which the general public may be unfamiliar and shall consist of, at a minimum, the following components:

(a) A long-range component documenting the goals and long-term objectives necessary to implement the results of the department's findings from its examination of the criteria listed in subsection (2). The long-range component must be developed in cooperation with the metropolitan planning organizations and reconciled, to the maximum extent feasible, with the long-range plans developed by metropolitan planning organizations pursuant to s. 339.175. The plan must also be developed in consultation with affected local officials in nonmetropolitan areas and with any affected Indian tribal governments. The plan must provide an examination of transportation issues likely to arise during at least a 20-year period. The long-range component shall be updated at least once every 5 years, or more often as necessary, to reflect substantive changes to federal or state law.

(b) A short-range component documenting the short-term objectives and strategies necessary to implement the goals and long-term objectives contained in the long-range component. The short-range component must define the relationship between the long-range goals and the short-range objectives, specify those objectives against which the department's achievement of such goals will be measured, and identify transportation strategies necessary to efficiently achieve the goals and objectives in the plan. It must provide a policy framework within which the department's legislative budget request, the strategic information resource management plan, and the work program are developed. The short-range component shall serve as the department's annual agency strategic plan pursuant to s. 186.021. The short-range component shall be developed consistent with the requirements of s. 186.022 and consistent with available and forecasted state and federal funds. In addition to those entities listed in s. 186.022, the short-range component shall also be submitted to the Florida Transportation Commission.

(4) ANNUAL PERFORMANCE REPORT.—The department shall develop an annual performance report evaluating the operation of the department for the preceding fiscal year. The report, which shall meet the requirements of s. 186.022, shall also include a summary of the financial operations of the department and shall annually evaluate how well the adopted work program meets the short-term objectives contained in the short-range component of the Florida Transportation Plan. In addition to the entities listed

in s. 186.022, this performance report shall also be submitted to the Florida Transportation Commission and the legislative appropriations and transportation committees.

(5) ADDITIONAL TRANSPORTATION PLANS.—

(a) Upon request by local governmental entities, the department may in its discretion develop and design transportation corridors, arterial and collector streets, vehicular parking areas, and other support facilities which are consistent with the plans of the department for major transportation facilities. The department may render to local governmental entities or their planning agencies such technical assistance and services as are necessary so that local plans and facilities are coordinated with the plans and facilities of the department.

(b) Each regional planning council, as provided for in s. 186.504, or any successor agency thereto, shall develop, as an element of its strategic regional policy plan, transportation goals and policies. The transportation goals and policies shall be consistent, to the maximum extent feasible, with the goals and policies of the metropolitan planning organization and the Florida Transportation Plan. The transportation goals and policies of the regional planning council will be advisory only and shall be submitted to the department and any affected metropolitan planning organization for their consideration and comments. Metropolitan planning organization plans and other local transportation plans shall be developed consistent, to the maximum extent feasible, with the regional transportation goals and policies. The regional planning council shall review urbanized area transportation plans and any other planning products stipulated in s. 339.175 and provide the department and respective metropolitan planning organizations with written recommendations which the department and the metropolitan planning organizations shall take under advisement. Further, the regional planning councils shall directly assist local governments which are not part of a metropolitan area transportation planning process in the development of the transportation element of their comprehensive plans as required by s. 163.3177.

(6) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) During the development of the long-range component of the Florida Transportation Plan and prior to substantive revisions, ~~and prior to adoption of all subsequent amendments,~~ the department shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other known interested parties with an opportunity to comment on the proposed plan or revisions ~~amendments~~. These opportunities ~~This hearing shall include presentation and discussion of the factors listed in subsection (2) and~~ shall include, at a minimum, publishing a notice in the Florida Administrative Weekly and within a newspaper of general circulation within the area of each department district office. ~~These notices shall be published twice prior to the day of the hearing, with the first notice appearing at least 14 days prior to the hearing.~~

(b) During development of major transportation improvements, such as those increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location, the department shall hold one or more hearings prior to the selection of the facility to be provided; prior to the selection of the site or corridor of the proposed facility; and prior to the selection of and commitment to a specific design proposal for the proposed facility. Such public hearings shall be conducted so as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions which will be made.

(c) Opportunity for design hearings:

1. The department, prior to holding a design hearing, shall duly notice all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the centerline of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall daily publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for the hearing shall be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a hearing shall be afforded in each case in which the department is in doubt as to whether a hearing is required.

Section 33. Section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the <u>safe and efficient management, operation, and</u> development of <u>surface</u> transportation systems ~~embracing various modes of transportation in a manner~~ that will <u>serve</u> ~~maximize~~ the mobility <u>needs</u> of people and <u>freight</u> ~~goods~~ within and through urbanized areas of this state <u>while minimizing</u> ~~and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies,~~

transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area ~~Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area~~. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(1) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. More than one M.P.O. may be designated within an existing metropolitan planning area ~~urbanized area~~ only if the Governor and the existing M.P.O. determine ~~determines~~ that the size and complexity of the existing metropolitan planning area makes ~~justifies~~ the designation of more than one M.P.O. for the area appropriate ~~multiple M.P.O.'s~~.

(b) Each M.P.O. shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, ~~at a minimum, the metropolitan area~~ and may encompass ~~include~~ the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act 42 U.S.C. s. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more

than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(2) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations. The Governor, in accordance with 23 U.S.C. s. 134, ~~as amended by the Intermodal Surface Transportation Efficiency Act of 1991,~~ may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning ~~designated urban~~ area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a five-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation. ~~In metropolitan areas in which authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of a general-purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O.~~ The county commission shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

(b) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions that are not under the jurisdiction of a general purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O. In all other M.P.O.'s where transportation authorities or agencies are to be represented by elected officials from general purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed. (c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a ¾ vote of its membership;

2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and

3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.

Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

(d)~~(b)~~ Any other provision of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its county commission serve as the M.P.O., if the M.P.O. jurisdiction is wholly contained within the county. Any charter county that elects to exercise the provisions of this paragraph shall so notify the Governor in writing. Upon receipt of such notification, the Governor must designate the county commission as the M.P.O. The Governor must appoint four additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a person who does not hold elected public office and who resides in the unincorporated portion of the county, and one of whom must be a school board member.

(3) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of Census ~~at least every 5 years~~ and reapportion it as necessary to comply with subsection (2).

(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a) may

serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (1)(b). The membership of a member who is a public official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

(c) If a governmental entity fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that governmental entity.

(4) AUTHORITY AND RESPONSIBILITY.—The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that results in the development of plans and programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of the affected governmental entities in the development of the plans and programs required by subsections (5), (6), (7), and (8).

(5) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(a) Each M.P.O. shall, in cooperation with the department, develop:

1. A long-range transportation plan pursuant to the requirements of subsection (6);

2. An annually updated transportation improvement program pursuant to the requirements of subsection (7); and

3. An annual unified planning work program pursuant to the requirements of subsection (8).

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will ~~must, at a minimum, consider~~:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

2. Increase the safety and security of the transportation system for motorized and nonmotorized users;

3. Increase the accessibility and mobility options available to people and for freight;

4. Protect and enhance the environment, promote energy conservation, and improve quality of life;

5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

~~1. The preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing facilities more efficiently;~~

(c) Additionally, each MPO shall consider:

1.~~2.~~ The consistency of transportation planning with applicable federal, state, and local energy conservation programs, goals, and objectives;

~~3. The need to relieve congestion and prevent congestion from occurring where it does not yet occur;~~

2.~~4.~~ The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with all applicable short-term and long-term land use and development plans;

~~5. The programming of transportation enhancement activities as required by federal law;~~

~~6. The effect of all transportation projects to be undertaken in the metropolitan area, without regard to whether such projects are publicly funded;~~

~~7. The provision of access to seaports, airports, intermodal transportation facilities, major freight distribution routes, national and state parks, recreation areas, monuments and historic sites, and military installations;~~

~~8. The need for roads within the metropolitan area to efficiently connect with roads outside the metropolitan area;~~

~~9. The transportation needs identified through the use of transportation management systems required by federal or state law;~~

3.~~10.~~ The preservation of rights-of-way for construction of future transportation projects, including the identification of unused rights-of-way that may be needed for future transportation corridors and the identification of corridors for which action is most needed to prevent destruction or loss;

~~11. Any available methods to enhance the efficient movement of freight;~~

~~12. The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement;~~

4.~~13.~~ The overall social, economic, energy, and environmental effects of transportation decisions; and

5.~~14.~~ ~~Any~~ Available methods to expand or enhance transit services and increase the use of such services.~~; and~~

(d)~~(c)~~ In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:

1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;

2. Assist the department in mapping transportation planning boundaries required by state or federal law;

3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;

4. Execute all agreements or certifications necessary to comply with applicable state or federal law;

5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and

6. Perform all other duties required by state or federal law.

(e)~~(d)~~ Each M.P.O. shall appoint a technical advisory committee that includes planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for identifying projects contained in the long-range transportation plan or transportation improvement program which deserve to be classified as a school safety concern. Upon receipt of the recommendation from the technical advisory committee that a project should be so classified, the M.P.O. must vote on whether to classify a particular project as a school safety concern. If the M.P.O. votes that a project should be classified as a school safety concern, the local governmental entity responsible for the project must consider at least two alternatives before making a decision about project location or alignment.

(f)~~(e)~~1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.

(g)~~(f)~~ The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

(h)~~(g)~~ Each M.P.O. may employ personnel or may enter into contracts with local or state agencies, private planning firms, or private engineering firms to accomplish its transportation planning and programming duties required by state or federal law.

(6) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques ~~that~~ may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of value ~~congestion~~ pricing.

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.

(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties~~, and members of the general public~~ with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

(7) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide the public, affected public ~~transit~~ agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties~~, and members of the general public~~ with a reasonable opportunity to comment on the proposed transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:

1. The approved M.P.O. long-range transportation plan;

2. The results of the transportation management systems; and

3. The M.P.O.'s public-involvement procedures.

(c) The transportation improvement program must, at a minimum:

1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.

2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range transportation plan developed under subsection (6).

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; identifies ~~and recommends~~ any innovative financing techniques that may be used to fund needed projects and programs; and may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing. ~~Such~~ techniques may include the assessment of tolls, the use of value capture financing, or the use of value ~~congestion~~ pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.

5. Indicate how the transportation improvement program relates to the long-range transportation plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation plan.

6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport and airport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.

(d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.

(e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(f)~~(e)~~ The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Community Affairs at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Community Affairs at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Community Affairs, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.

(g)~~(f)~~ The Department of Community Affairs shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each

M.P.O. and shall identify those projects that are inconsistent with such comprehensive plans. The Department of Community Affairs shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.

(8) UNIFIED PLANNING WORK PROGRAM.—Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.

(9) AGREEMENTS.—

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, and seaports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, and seaport planning and programming will be part of the comprehensive planned development of the metropolitan area.

(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in s. 339.155(5).

(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also

elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation ~~or~~ for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

(11) APPLICATION OF FEDERAL LAW.—Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.

Section 34. Subsection (14) is added to section 341.041, Florida Statutes, 1998 Supplement, to read:

341.041 Transit responsibilities of the department.—The department shall, within the resources provided pursuant to chapter 216:

(14) Create and maintain a common self-retention insurance fund to support fixed-guideway projects throughout the state when there is a contractual obligation to have the fund in existence in order to provide fixed-guideway services. The maximum limit of the fund is as required by any contractual obligation.

Section 35. Subsections (6) and (8) of section 341.302, Florida Statutes, are amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under Title 49 C.F.R. part 212, the department shall:

(6) Secure and administer federal grants, loans, and apportionments for rail projects within this state when necessary to further the statewide program.

(8) Conduct, at a minimum, inspections of track and rolling stock, train signals and related equipment, hazardous materials transportation, including the loading, unloading, and labeling of hazardous materials at shippers', receivers', and transfer points, and train operating practices to determine adherence to state and federal standards. Department personnel may enforce any safety regulation issued under the Federal Government's preemptive authority over interstate commerce.

Section 36. Paragraph (a) of subsection (2) and subsections (3), (4), (5), (6), (9), and (10) of section 373.4137, Florida Statutes, are amended to read:

373.4137 Mitigation requirements.—

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation shall be developed as follows:

(a) By May 1 of each year ~~Beginning July 1996~~, the Department of Transportation shall submit ~~annually~~ to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules tentatively, ~~adopted~~ pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next ~~first~~ 3 years of the tentative work program. The Department of Transportation may also include in its inventory the habitat impacts of any future transportation project identified in the tentative work program. ~~For the July 1996 submittal, the inventory may exclude those projects which have received permits pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, projects for which mitigation planning or~~

~~design has commenced, or projects for which mitigation has been implemented in anticipation of future permitting needs.~~

(3) To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), ~~beginning July 1, 1997,~~ the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account will be maintained ~~established~~ by the Department of Transportation for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with ~~be returned to~~ the Department of Transportation. The Department of Environmental Protection or water management districts may ~~shall~~ request a transfer of funds from the escrow account ~~to the Ecosystem Management and Restoration Trust Fund~~ no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation and the Department of Environmental Protection by November 1 of each year with the plan. The conceptual plan preparation costs of each water management district will be paid based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district ~~contained in the mitigation programs~~. The amount transferred to the escrow account each year by the Department of Transportation shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2) ~~within the water management district for that year. The water management district may draw from the trust fund no sooner than 30 days prior to the date funds are needed to pay for activities associated with development or implementation of the mitigation plan described in subsection (4)~~. Each July 1, ~~beginning in 1998,~~ the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject~~,~~ ~~and the following~~ year's transfer of funds shall be adjusted accordingly to reflect the overtransfer or undertransfer of funds from the preceding year. The Department of Transportation ~~Environmental Protection~~ is authorized to transfer such funds from the escrow account to the Department of Environmental Protection and ~~Ecosystem Management and Restoration Trust Fund to~~ the water management districts to carry out the mitigation programs.

(4) Prior to December 1 of each year ~~31, 1996~~, each water management district, in consultation with the Department of Environmental Protection,

the United States Army Corps of Engineers, the Department of Transportation, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant invasive ~~aquatic and exotic~~ plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) waterbodies and lands identified for potential acquisition for preservation, restoration, and enhancement, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization ~~under this part~~ and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569. At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable. ~~If the Department of Environmental Protection and water management districts are unable to identify mitigation that would offset the impacts of a project included in the inventory, either due to the nature of the impact or the amount of funds available, that project shall not be addressed in the mitigation plan and the project shall not be subject to the provisions of this section.~~

(b) Specific projects may be excluded from the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process, or the Department of Environmental Protection and the water management district are unable to identify mitigation that would offset the impacts of the project.

(c) Surface water improvement and management or invasive plant control projects undertaken using the $12 million advance transferred from the

Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the $12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the $12 million advance shall be reduced by $75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred pursuant to subsection (3), the difference shall be credited towards the $12 million advance. Except as provided in this paragraph, any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters. ~~Those transportation projects that are proposed to commence in fiscal year 1996-1997 shall not be addressed in the mitigation plan, and the provisions of subsection (7) shall not apply to these projects. The Department of Transportation may enter into interagency agreements with the Department of Environmental Protection or any water management district to perform mitigation planning and implementation for these projects.~~

~~(d) On July 1, 1996, the Department of Transportation shall transfer to the Department of Environmental Protection $12 million from the State Transportation Trust Fund for the purposes of the surface water improvement management program and to address statewide aquatic and exotic plant problems within wetlands and other surface waters. Such funds shall be considered an advance upon funds that the Department of Transportation would provide for statewide mitigation during the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This use of mitigation funds for surface water improvement management projects or aquatic and exotic plant control may be utilized as mitigation for transportation projects to the extent that it complies with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. To the extent that such activities result in mitigation credit for projects permitted in fiscal year 1996-1997, all or part of the $12 million funding for surface water improvement management projects or aquatic and exotic plant control in fiscal year 1996-1997 shall be drawn from Department of Transportation mitigation funding for fiscal year 1996-1997 rather than from mitigation funding for fiscal years 1997-1998, 1998-1999, and 1999-2000, in an amount equal to the cost per acre of impact described in subsection (3), times the acreage of impact that is mitigated by such plant control activities. Any part of the $12 million that does not result in mitigation credit for projects permitted in fiscal year 1996-1997 shall remain available for mitigation credit during fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided ~~as funded~~ by the Department of Transportation. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plan shall be updated annually to reflect the most current Department of Transportation work program and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval ~~as described in subsection (4)~~. However, such approval shall not be applicable to a deviation as described in subsection (5).

~~(9) The recommended mitigation plan shall be annually submitted to the Executive Office of the Governor and the Legislature through the legislative budget request of the Department of Environmental Protection in accordance with chapter 216. Any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund aquatic and exotic plant problems within the wetlands and other surface waters.~~

~~(10) By December 1, 1997, the Department of Environmental Protection, in consultation with the water management districts, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation of this section, including the use of public and private mitigation banks and other types of mitigation approved in the mitigation plan. The report shall also recommend any amendments to this section necessary to improve the process for developing and implementing mitigation plans for the Department of Transportation. The report shall also include a specific section on how private and public mitigation banks are utilized within the mitigation plans.~~

Section 37. Subsections (3) and (23) of section 479.01, Florida Statutes, are amended to read:

479.01 Definitions.—As used in this chapter, the term:

(3) "Commercial or industrial zone" means a parcel of land ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system~~ designated ~~predominately~~ for commercial or industrial use under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter 163. If a parcel is located in an area designated for multiple uses on the future land use map of a comprehensive plan and the land development regulations do not clearly designate that parcel for a specific use, the area will be considered an unzoned commercial or industrial area if it meets the criteria of subsection (23). ~~Where a local governmental entity has not enacted a comprehensive plan by local ordinance but has zoning regulations governing the area, the zoning of an area shall determine whether the area is designated predominately for commercial or industrial uses.~~

(23) "Unzoned commercial or industrial area" means a parcel of land designated by the ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system where the land use is not covered by a~~ future land use map of the comprehensive plan for multiple uses that include commercial or industrial uses but are not specifically designated for commercial or industrial uses under the land development regulations ~~or zoning regulation pursuant to subsection (2)~~, in which ~~there~~

~~are located~~ three or more separate and distinct conforming industrial or commercial activities are located.

(a) These activities must satisfy the following criteria:

1. At least one of the commercial or industrial activities must be located on the same side of the highway and within 800 feet of the sign location;

2. The commercial or industrial activities must be within 660 feet from the nearest edge of the right-of-way; and

3. The commercial industrial activities must be within 1,600 feet of each other.

Distances specified in this paragraph must be measured from the nearest outer edge of the primary building or primary building complex when the individual units of the complex are connected by covered walkways. ~~uses located within a 1,600-foot radius of each other and generally recognized as commercial or industrial by zoning authorities in this state.~~

(b) Certain activities, including, but not limited to, the following, may not be so recognized as commercial or industrial activities:

1.~~(a)~~ Signs.

2.~~(b)~~ Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

3.~~(c)~~ Transient or temporary activities.

4.~~(d)~~ Activities not visible from the main-traveled way.

5.~~(e)~~ Activities conducted more than 660 feet from the nearest edge of the right-of-way.

6.~~(f)~~ Activities conducted in a building principally used as a residence.

7.~~(g)~~ Railroad tracks and minor sidings.

8. Communication towers.

Section 38. Paragraphs (b) and (c) of subsection (8) of section 479.07, Florida Statutes, are amended to read:

479.07 Sign permits.—

(8)

(b) If a permittee has not submitted his or her fee payment by the expiration date of the licenses or permits, the department shall send a notice of violation to the permittee within 45 days after the expiration date, requiring the payment of the permit fee within 30 days after the date of the notice and payment of a delinquency fee equal to 10 percent of the original amount due or, in the alternative to these payments, requiring the filing of a request for

an administrative hearing to show cause why his or her sign should not be subject to immediate removal due to expiration of his or her license or permit. If the permittee submits payment as required by the violation notice, his or her license or permit will be automatically reinstated and such reinstatement will be retroactive to the original expiration date. If the permittee does not respond to the notice of violation within the 30-day period, the department shall, within 30 days, issue a final notice of sign removal and may, following 90 days after the date of the department's final notice of sign removal, remove the sign without incurring any liability as a result of such removal. However, if at any time before removal of the sign ~~within 90 days after the date of the department's final notice of sign removal~~, the permittee demonstrates that a good-faith ~~good faith~~ error on the part of the permittee resulted in cancellation or nonrenewal of the permit, the department may reinstate the permit if:

~~1. The sign has not yet been disassembled by the permittee;~~

~~2. Conflicting applications have not been filed by other persons;~~

1.~~3.~~ The permit reinstatement fee of up to $300 based on the size of the sign is paid;

2.~~4.~~ All other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and

3.~~5.~~ The permittee reimburses the department for all actual costs resulting from the permit cancellation or nonrenewal ~~and sign removal~~.

(c) Conflicting applications filed by other persons for the same or competing sites covered by a permit subject to paragraph (b) may not be approved until after the sign subject to the expired permit has been removed.

(d)~~(c)~~ The cost for removing a sign, whether by the department or an independent contractor, shall be assessed by the department against the permittee.

Section 39. Subsection (15) of section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under the provisions of this chapter but are required to comply with the provisions of s. 479.11(4)-(8):

(15) Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign not in excess of 16 ~~8~~ square feet, denoting only the name of the business and the distance and direction to the business. The small-business-sign provision of this subsection does not apply to charter counties and may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the department.

Section 40. Subsection (5) is added to section 320.0715, Florida Statutes, to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(5) The provisions of this section do not apply to any commercial motor vehicle domiciled in a foreign state that enters this state solely for the purpose of bringing a commercial vehicle in for repairs, or picking up a newly purchased commercial vehicle, so long as the commercial motor vehicle is operated by its owner and is not hauling a load.

Section 41. Section 334.035, Florida Statutes, is amended to read:

334.035 Purpose of transportation code.—The purpose of the Florida Transportation Code is to establish the responsibilities of the state, the counties, and the municipalities in the planning and development of the transportation systems serving the people of the state and to assure the development of an integrated, balanced statewide transportation system which enhances economic development through promotion of international trade and interstate and intrastate commerce. This code is necessary for the protection of the public safety and general welfare and for the preservation of all transportation facilities in the state. The chapters in the code shall be considered components of the total code, and the provisions therein, unless expressly limited in scope, shall apply to all chapters.

Section 42. Subsection (1) of section 334.0445, Florida Statutes, 1998 Supplement, is amended to read:

334.0445 Model career service classification and compensation plan.—

(1) Effective July 1, 1994, the Legislature grants to the Department of Transportation in consultation with the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions, the authority on a pilot basis to develop and implement a model career service classification and compensation system. Such system shall be developed for use by all state agencies. Authorization for this program will be through June 30, 2002 ~~for 3 fiscal years beginning July 1, 1994, and ending June 30, 1997~~; however, the department may elect or be directed by the Legislature to return to the current system at anytime during this period if the model system does not meet the stated goals and objectives.

Section 43. Section 334.046, Florida Statutes, is amended to read:

(Substantial rewording of section. See
s. 334.046, F.S., for present text.)

334.046 Department mission, goals, and objectives.—

(1) The mission of the Department of Transportation shall be to provide a safe, interconnected statewide transportation system for Florida's citizens and visitors that ensures the mobility of people and freight, while enhancing economic prosperity and sustaining the quality of our environment.

(2) The department shall document in the Florida Transportation Plan pursuant to s. 339.155 the goals and objectives which provide statewide policy guidance for accomplishing the department's mission.

(3) At a minimum, the department's goals shall address the following:

(a) Providing a safe transportation system for residents, visitors, and commerce.

(b) Preservation of the transportation system.

(c) Providing an interconnected transportation system to support Florida's economy.

(d) Providing travel choices to support Florida's communities.

Section 44. Section 334.071, Florida Statutes, is created to read:

334.071 Legislative designation of transportation facilities.—

(1) Designation of a transportation facility contained in an act of the Legislature is for honorary or memorial purposes or to distinguish a particular facility, and unless specifically provided for, shall not be construed to require any action by a local government or private party regarding the changing of any street signs, mailing address, or 911 emergency telephone number system listing.

(2) The effect of such designations shall only be construed to require the placement of markers by the department at the termini or intersections specified for each highway segment or bridge designated, and as authority for the department to place other markers as appropriate for the transportation facility being designated.

Section 45. Section 337.025, Florida Statutes, is amended to read:

337.025 Innovative highway projects; department to establish program.—The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, prior to using an innovative technique that is inconsistent with another provision of law, the department must document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than $120 ~~$60~~ million in contracts annually for the purposes authorized by this section.

Section 46. Paragraph (a) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike district, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Intrastate Highway System established pursuant to s. 338.001. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

Section 47. Subsections (2) through (5) of section 341.053, Florida Statutes, are renumbered as subsections (3) through (6), respectively, and a new subsection (2) is added to that section to read:

341.053 Intermodal Development Program; administration; eligible projects; limitations.—

(2) In recognition of the department's role in the economic development of this state, the department shall develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state in order to make the intermodal development plan a fully integrated and interconnected system. The intermodal development plan must:

(a) Define and assess the state's freight intermodal network, including airports, seaports, rail lines and terminals, and connecting highways.

(b) Prioritize statewide infrastructure investments, including the acceleration of current projects, which are found by the Freight Stakeholders

Task Force to be priority projects for the efficient movement of people and freight.

(c) Be developed in a manner that will assure maximum use of existing facilities and optimum integration and coordination of the various modes of transportation, including both government-owned and privately owned resources, in the most cost-effective manner possible.

Section 48. Section 348.9401, Florida Statutes, is amended to read:

348.9401 Short title.—This part shall be known and may be cited as the "St. Lucie County Expressway and Bridge Authority Law."

Section 49. Subsections (2) and (11) of section 348.941, Florida Statutes, are amended to read:

348.941 Definitions.—As used in this part, unless the context clearly indicates otherwise, the term:

(2) "Authority" means the St. Lucie County Expressway and Bridge Authority.

(11) "St. Lucie County Expressway and Bridge System" means:

(a) any and all expressways in St. Lucie County and appurtenant facilities thereto, including, but not limited to, all approaches, roads, bridges, and avenues of access for such expressway or expressways; and

(b) The Indian River Lagoon Bridge.

Section 50. The catchline and subsections (1) and (2) of section 348.942, Florida Statutes, are amended to read:

348.942 St. Lucie County and Bridge Expressway Authority.—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the "St. Lucie County Expressway and Bridge Authority," hereinafter referred to as the "authority."

(2) The authority shall have the exclusive right to exercise all those powers herein set forth; and no other entity, body, or authority, whether within or without St. Lucie County, may either directly or indirectly exercise any jurisdiction, control, authority, or power in any manner relating to any expressway and bridge system within St. Lucie County without either the express consent of the authority or as otherwise provided herein.

Section 51. Paragraph (a) of subsection (1) and paragraph (g) of subsection (2) of section 348.943, Florida Statutes, are amended to read:

348.943 Purposes and powers.—

(1)(a) The authority created and established by the provisions of this part is granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own, and lease the St. Lucie County Expressway and Bridge System, hereinafter referred to as the "system."

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

(g)1. To borrow money as provided by the State Bond Act or, in the alternative, pursuant to the provisions of s. 348.944(3), and in either case for any purpose of the authority authorized, including the financing or refinancing of the cost of all or any part of the system.

2. The authority shall reimburse St. Lucie County for any sums expended, together with interest at the highest rate applicable to the bonds of the authority for which the sums were required, from the St. Lucie County gasoline tax funds for payment of the bonds.

Section 52. Section 348.944, Florida Statutes, is amended to read:

348.944 Bonds.—

(1) Bonds may be issued on behalf of the authority as provided by the State Bond Act.

(2) As an alternative to subsection (1), the authority may issue its own bonds pursuant to subsection (3) in such principal amounts as, in the opinion of the authority, are necessary to provide sufficient moneys for achieving its corporate purposes, so long as such bonds do not pledge the full faith and credit of the state, St. Lucie County, or any municipality in St. Lucie County.

(3) The bonds of the authority issued pursuant to this subsection, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof and may be either term or serial bonds, shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates (not exceeding the maximum lawful rate), fixed or variable, be in such denominations, be in such form, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, with or without premium, and have such rank and be entitled to such priorities on the revenues, tolls, fees, rentals, or other charges, receipts, or moneys of the authority, including any moneys received pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine. The term “bonds” shall include all forms of indebtedness, including notes. The proceeds of any bonds shall be used for such purposes and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide pursuant to resolution. The bonds may also be issued pursuant to an indenture of trust or other agreement with such trustee or fiscal agent as may be selected by the authority. The resolution, indenture of trust, or other agreement may contain such provisions securing the bonds as the authority deems appropriate. The principal of and the interest on the bonds shall be payable from such revenues, tolls, fees, rentals, or other charges, receipts, or moneys as determined by the authority pursuant to

resolution. The authority may grant a lien upon and pledge such revenues, tolls, fees, rentals, or other charges, receipts, or moneys in favor of the holders of each series of bonds in the manner and to the extent provided by the authority by resolution. Such revenues, tolls, fees, rentals, or other charges, receipts, or moneys shall immediately be subject to such lien without any physical delivery thereof, and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority.

(4) Bonds issued by or on behalf of the authority shall be sold at public sale in the manner provided by the State Bond Act. However, if the authority shall determine by resolution that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the division in the case of bonds issued pursuant to subsection (1) or the authority in the case of bonds issued pursuant to subsection (3). The authority shall provide a specific finding by resolution as to the reason requiring the negotiated sale. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

Section 53. Section 348.9495, Florida Statutes, is created to read:

348.9495 Exemption from taxation.—The effectuation of the authorized purposes of the authority created under this part is, shall, and will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and, since such authority will be performing essential governmental functions in effectuating such purposes, such authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes or upon any tolls, fees, rentals, receipts, moneys, or charges at any time received by it, and the bonds issued by the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision, taxing agency, or instrumentality thereof. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 54. Paragraph (d) of subsection (1) of section 212.055, Florida Statutes, 1998 Supplement, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(d) Proceeds from the surtax shall be applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate:

1. Deposited by the county in the trust fund and shall be used ~~only~~ for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, ~~or~~ for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; and ~~or~~

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, and ~~or~~ maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of ~~an existing~~ bus and fixed guideway systems ~~system~~; and ~~or~~ for the payment of principal and interest on ~~existing~~ bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for nontransit uses.

Section 55. Paragraph (f) of subsection (2) of section 348.0004, Florida Statutes, is amended, and paragraph (m) is added to that subsection, to read:

348.0004 Purposes and powers.—

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to the extent surplus revenues exist, they may be used for purposes enumerated in subsection (7), provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan. Notwithstanding any other provision of law to the contrary, but

subject to any contractual requirements contained in documents securing any outstanding indebtedness payable from tolls, in any county as defined in s. 125.011(1), the board of county commissioners may, by ordinance adopted on or before September 30, 1999, alter or abolish existing tolls and currently approved increases thereto if the board provides a local source of funding to the county expressway system for transportation in an amount sufficient to replace revenues necessary to meet bond obligations secured by such tolls and increases.

(m) An expressway authority in any county as defined in s. 125.011(1) may consider any unsolicited proposals from private entities and all factors it deems important in evaluating such proposals. Such an expressway authority shall adopt rules or policies in compliance with s. 334.30 for the receipt, evaluation, and consideration of such proposals in order to enter into agreements for the planning design, engineering, construction, operation, ownership, or financing of additional expressways in that county. Such rules must require substantially similar technical information as is required by s. 14-107.0011(3)(a)-(e), F.A.C. In accepting a proposal and entering into such an agreement, the expressway authority and the private entity shall for all purposes be deemed to have complied with chapters 255 and 287. Similar proposals shall be reviewed and acted on by the authority in the order in which they were received. An additional expressway may not be constructed under this section without the prior express written consent of the board of county commissioners of each county located within the geographical boundaries of the authority. The powers granted by this section are in addition to all other powers of the authority granted by this chapter.

Section 56. In addition to the voting membership established by s. 339.175(2), Florida Statutes, 1998 Supplement, and notwithstanding any other provision of law to the contrary, the voting membership of any Metropolitan Planning Organization whose geographical boundaries include any county as defined in s. 125.011(1), Florida Statutes, must include an additional voting member appointed by that city's governing body for each city with a population of 50,000 or more residents.

Section 57. Effective January 1, 2000, section 73.015, Florida Statutes, is created to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(a) At the inception of negotiation for acquisition, the condemning authority must notify the fee owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the fee owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The fee owner's statutory rights under ss. 73.091 and 73.092.

5. The fee owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4).

(b) The condemning authority must provide a written offer of compensation to the fee owner as to the value of the property sought to be appropriated and, where less than the entire property is sought to be appropriated, any damages to the remainder caused by the taking. The owner must be given at least 30 days after either receipt of the notice or the date the notice is returned as undeliverable by the postal authorities to respond to the offer, before the condemning authority files a condemnation proceeding for the parcel identified in the offer.

(c) The notice and written offer must be sent by certified mail, return receipt requested, to the fee owner's last known address listed on the county ad valorem tax roll. Alternatively, the notice and written offer may be personally delivered to the fee owner of the property. If there is more than one owner of a property, notice to one owner constitutes notice to all owners of the property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this provision. The condemning authority is not required to give notice or a written offer to a person who acquires title to the property after the notice required by this section has been given.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 259.041, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

(2) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74 by the Department of Transportation or by a county, municipality, board, district, or other public body for the condemnation of right-of-way, the condemning authority must make a good-faith effort to notify the business owners, including lessees, who operate a business located on the property to be acquired.

(a) The condemning authority must notify the business owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the business owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The business owner's statutory rights under ss. 73.071, 73.091, and 73.092.

5. The business owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4).

(b) The notice must be made subsequent to or concurrent with the condemning authority's making the written offer of compensation to the fee owner pursuant to subsection (1). The notice must be sent by certified mail, return receipt requested, to the address of the registered agent for the business located on the property to be acquired, or if no agent is registered, by certified mail or personal delivery to the address of the business located on the property to be acquired. Notice to one owner of a multiple ownership business constitutes notice to all business owners of that business. The return of the notice as undeliverable by the postal authorities constitutes compliance with these provisions. The condemning authority is not required to give notice to a person who acquires an interest in the business after the notice required by this section has been given. Once notice has been made to business owners under this subsection, the condemning authority may file a condemnation proceeding pursuant to chapter 73 or chapter 74 for the property identified in the notice.

(c) If the business qualifies for business damages pursuant to s. 73.071(3)(b) and the business intends to claim business damages, the business owner must, within 180 days after either receipt of the notice or the date the notice is returned as undeliverable by the postal authorities, or at a later time mutually agreed to by the condemning authority and the business owner, submit to the condemning authority a good-faith written offer to settle any claims of business damage. The written offer must be sent to the condemning authority by certified mail, return receipt requested. Absent a showing of a good-faith justification for the failure to submit a business-damage offer within 180 days, the court must strike the business owner's claim for business damages in any condemnation proceeding. If the court finds that the business owner has made a showing of a good-faith justification for the failure to timely submit a business damage offer, the court shall grant the business owner up to 180 days within which to submit a business-damage offer, which the condemning authority must respond to within 120 days.

1. The business-damage offer must include an explanation of the nature, extent, and monetary amount of such damage and must be prepared by the owner, a certified public accountant, or a business damage expert familiar with the nature of the operations of the owner's business. The business owner shall also provide to the condemning authority copies of the owner's business records that substantiate the good-faith offer to settle the business damage claim. If additional information is needed beyond data that may be obtained from business records existing at the time of the offer, the business owner and condemning authority may agree on a schedule for the submission of such information.

2. As used in this paragraph, the term "business records" includes, but is not limited to, copies of federal income tax returns, federal income tax withholding statements, federal miscellaneous income tax statements, state sales tax returns, balance sheets, profit and loss statements, and state corporate income tax returns for the 5 years preceding notification which are attributable to the business operation on the property to be acquired, and other records relied upon by the business owner that substantiate the business-damage claim.

(d) Within 120 days after receipt of the good-faith business-damage offer and accompanying business records, the condemning authority must, by certified mail, accept or reject the business owner's offer or make a counteroffer. Failure of the condemning authority to respond to the business damage offer, or rejection thereof pursuant to this section, must be deemed to be a counteroffer of zero dollars for purposes of subsequent application of s. 73.092(1).

(3) At any time in the presuit negotiation process, the parties may agree to submit the compensation or business-damage claims to nonbinding mediation. The parties shall agree upon a mediator certified under s. 44.102. In the event that there is a settlement reached as a result of mediation or other mutually acceptable dispute resolution procedure, the agreement reached shall be in writing. The written agreement provided for in this section shall incorporate by reference the right-of-way maps, construction plans, or other documents related to the taking upon which the settlement is based. In the event of a settlement, both parties shall have the same legal rights that would have been available under law if the matter had been resolved through eminent domain proceedings in circuit court with the maps, plans, or other documents having been made a part of the record.

(4) If a settlement is reached between the condemning authority and a property or business owner prior to a lawsuit being filed, the property or business owner who settles compensation claims in lieu of condemnation shall be entitled to recover costs in the same manner as provided in s. 73.091 and attorney's fees in the same manner as provided in s. 73.092, more specifically as follows:

(a) Attorney's fees for presuit negotiations under this section regarding the amount of compensation to be paid for the land, severance damages, and improvements must be calculated in the same manner as provided in s. 73.092(1) unless the parties otherwise agree.

(b) If business damages are recovered by the business owner based on the condemning authority accepting the business owner's initial offer or the business owner accepting the condemning authority's initial counteroffer, attorney's fees must be calculated in accordance with s. 73.092(2), (3), (4), and (5) for the attorney's time incurred in presentation of the business owner's good-faith offer under paragraph (2)(c). Otherwise, attorney's fees for the award of business damages must be calculated as provided in s. 73.092(1), based on the difference between the final judgment or settlement of business damages and the counteroffer to the business owner's offer by the condemning authority.

(c) Presuit costs must be presented, calculated, and awarded in the same manner as provided in s. 73.091, after submission by the business or property owner to the condemning authority of all appraisal reports, business damage reports, or other work-products for which recovery is sought, and upon transfer of title of the real property by closing, upon payment of any amounts due for business damages, or upon final judgment.

(d) If the parties cannot agree on the amount of costs and attorney's fees to be paid by the condemning authority, the business or property owner may file a complaint in the circuit court in the county in which the property is located to recover attorney's fees and costs.

This shall only apply when the action is by the Department of Transportation, county, municipality, board, district, or other public body for the condemnation of a road right-of-way.

(5) Evidence of negotiations or of any written or oral statements used in mediation or negotiations between the parties under this section is inadmissible in any condemnation proceeding, except in a proceeding to determine reasonable costs and attorney's fees.

Section 58. Effective January 1, 2000, subsection (3) of section 73.071, Florida Statutes, is amended to read:

73.071 Jury trial; compensation; severance damages; business damages.—

(3) The jury shall determine solely the amount of compensation to be paid, which compensation shall include:

(a) The value of the property sought to be appropriated;

(b) Where less than the entire property is sought to be appropriated, any damages to the remainder caused by the taking, including, when the action is by the Department of Transportation, county, municipality, board, district or other public body for the condemnation of a right-of-way, and the effect of the taking of the property involved may damage or destroy an established business of more than 4 ~~5~~ years' standing, owned by the party whose lands are being so taken, located upon adjoining lands owned or held by such party, the probable damages to such business which the denial of the use of the property so taken may reasonably cause; any person claiming the right

to recover such special damages shall set forth in his or her written defenses the nature and extent of such damages; and

(c) Where the appropriation is of property upon which a mobile home, other than a travel trailer as defined in s. 320.01, is located, whether or not the owner of the mobile home is an owner or lessee of the property involved, and the effect of the taking of the property involved requires the relocation of such mobile home, the reasonable removal or relocation expenses incurred by such mobile home owner, not to exceed the replacement value of such mobile home. The compensation paid to a mobile home owner under this paragraph shall preclude an award to a mobile home park owner for such expenses of removal or relocation. Any mobile home owner claiming the right to such removal or relocation expenses shall set forth in his or her written defenses the nature and extent of such expenses. This paragraph shall not apply to any governmental authority exercising its power of eminent domain when reasonable removal or relocation expenses must be paid to mobile home owners under other provisions of law or agency rule applicable to such exercise of power.

Section 59. Effective January 1, 2000, the amendments to subsection (3) of section 73.071, Florida Statutes, as contained in this act shall stand repealed effective January 1, 2003.

Section 60. Effective January 1, 2000, subsection (1) of section 73.091, Florida Statutes, is amended to read:

73.091 Costs of the proceedings.—

(1) The petitioner shall pay attorney's fees as provided in s. 73.092 as well as all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court. No prejudgment interest shall be paid on costs or attorney's fees.

Section 61. Effective January 1, 2000, subsection (1) of section 73.092, Florida Statutes, is amended to read:

73.092 Attorney's fees.—

(1) Except as otherwise provided in this section and s. 73.015, the court, in eminent domain proceedings, shall award attorney's fees based solely on the benefits achieved for the client.

(a) As used in this section, the term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.

1. In determining attorney's fees, if business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were

provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c), benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the written counteroffer made by the condemning authority provided in s. 73.015(2)(d).

2. In determining attorney's fees, if existing business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were not provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c) and those records which were not provided are later deemed material to the determination of business damages, benefits for amounts awarded for business damages must be based upon the difference between the final judgment or settlement and the first written counteroffer made by the condemning authority within 90 days from the condemning authority's receipt of the business records previously not provided.

~~1. In determining attorney's fees in prelitigation negotiations, benefits do not include amounts awarded for business damages unless the business owner provided to the condemning authority, upon written request, prior to litigation, those financial and business records kept by the owner in the ordinary course of business.~~

~~2. In determining attorney's fees subsequent to the filing of litigation, if financial and business records kept by the owner in the ordinary course of business were not provided to the condemning authority prior to litigation, benefits for amounts awarded for business damages must be based on the first written offer made by the condemning authority within 120 days after the filing of the eminent domain action. In the event the petitioner makes a discovery request for a defendant's financial and business records kept in the ordinary course of business within 45 days after the filing of that defendant's answer, then the 120-day period shall be extended to 60 days after receipt by petitioner of those records. If the condemning authority makes no written offer to the defendant for business damages within the time period provided in this section, benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hired an attorney.~~

(b) The court may also consider nonmonetary benefits obtained for the client through the efforts of the attorney, to the extent such nonmonetary benefits are specifically identified by the court and can, within a reasonable degree of certainty, be quantified.

(c) Attorney's fees based on benefits achieved shall be awarded in accordance with the following schedule:

1. Thirty-three percent of any benefit up to $250,000; plus

2. Twenty-five percent of any portion of the benefit between $250,000 and $1 million; plus

3. Twenty percent of any portion of the benefit exceeding $1 million.

Section 62. Effective January 1, 2000, subsection (1) of section 127.01, Florida Statutes, is amended to read:

127.01 Counties delegated power of eminent domain; recreational purposes, issue of necessity of taking.—

(1)(a) Each county of the state is delegated authority to exercise the right and power of eminent domain; that is, the right to appropriate property, except state or federal, for any county purpose. The absolute fee simple title to all property so taken and acquired shall vest in such county unless the county seeks to condemn a particular right or estate in such property.

(b) Each county is further authorized to exercise the eminent domain power ~~powers~~ granted to the Department of Transportation by s. 337.27(1) ~~and (2)~~, the transportation corridor protection provisions of s. 337.273, and the right of entry onto property pursuant to s. 337.274.

Section 63. Effective January 1, 2000, subsection (2) of section 166.401, Florida Statutes, is amended to read:

166.401 Right of eminent domain.—

(2) Each municipality is further authorized to exercise the eminent domain power ~~powers~~ granted to the Department of Transportation in s. 337.27(1) ~~and (2)~~ and the transportation corridor protection provisions of s. 337.273.

Section 64. Effective January 1, 2000, subsection (2) of section 337.27, section 337.271, subsection (2) of section 348.0008, subsection (2) of section 348.759, and subsection (2) of section 348.957, Florida Statutes, are repealed.

Section 65. Subsections (3), (4), (5), and (6) are added to section 479.15, Florida Statutes, to read:

479.15 Harmony of regulations.—

(3) It is the express intent of the Legislature to limit the state right-of-way acquisition costs on state and federal roads in eminent domain proceedings, the provisions of ss. 479.07 and 479.155 notwithstanding. Subject to approval by the Federal Highway Administration, whenever public acquisition of land upon which is situated a lawful nonconforming sign occurs, as provided in this chapter, the sign may, at the election of its owner and the department, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated on a parcel zoned residential, and provided further that such relocation shall be subject to applicable setback requirements. The sign owner shall pay all costs associated with relocating or reconstructing any sign under this subsection, and neither the state nor any local government shall reimburse the sign owner for such costs, unless part of such relocation costs are required by federal law. If no adjacent

property is available for the relocation, the department shall be responsible for paying the owner of the sign just compensation for its removal.

(4) Such relocation shall be adjacent to the current site and the face of the sign shall not be increased in size or height or structurally modified at the point of relocation in a manner inconsistent with the current building codes of the jurisdiction in which the sign is located.

(5) In the event that relocation can be accomplished but is inconsistent with the ordinances of the municipality or county within whose jurisdiction the sign is located, the ordinances of the local government shall prevail, provided that the local government shall assume the responsibility to provide the owner of the sign just compensation for its removal, but in no event shall compensation paid by the local government exceed the compensation required under state or federal law. Further, the provisions of this section shall not impair any agreement or future agreements between a municipality or county and the owner of a sign or signs within the jurisdiction of the municipality or county. Nothing in this section shall be deemed to cause a nonconforming sign to become conforming solely as a result of the relocation allowed in this section.

(6) The provisions of subsections (3), (4), and (5) of this section shall not apply within the jurisdiction of any municipality which is engaged in any litigation concerning its sign ordinance on April 23, 1999, nor shall such provisions apply to any municipality whose boundaries are identical to the county within which said municipality is located.

Section 66. Paragraph (d) of subsection (3) of section 20.23, Florida Statutes, 1998 Supplement, is amended to read:

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

(3)

(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)~~(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.

Section 67. Subsection (4) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(4) The department may authorize the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(6)(b)~~(7)(b)~~. Such investment shall be limited as provided in s. 288.9607(7).

Section 68. Section 215.616, Florida Statutes, is created to read:

215.616 State bonds for federal aid highway construction.—

(1) Upon the request of the Department of Transportation, the Division of Bond Finance is authorized pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act to issue revenue bonds, for and on behalf of the Department of Transportation, for the purpose of financing or refinancing the construction, reconstruction, and improvement of projects that are eligible to receive federal-aid highway funds. The Division of Bond Finance is authorized to consider innovative financing technologies which may include, but are not limited to, innovative bidding and structures of potential financings that may result in negotiated transactions.

(2) Any bonds issued pursuant to this section shall be payable primarily from a prior and superior claim on all federal highway aid reimbursements received each year with respect to federal-aid projects undertaken in accordance with the provisions of Title 23 of the United States Code.

(3) The term of the bonds shall not exceed a term of 12 years. Prior to the issuance of bonds, the Department of Transportation shall determine that annual debt service on all bonds issued pursuant to this section does not exceed 10 percent of annual apportionments to the department for federal highway aid in accordance with the provisions of Title 23 of the United States Code.

(4) The bonds issued under this section shall not constitute a debt or general obligation of the state or a pledge of the full faith and credit or taxing power of the state. The bonds shall be secured by and are payable from the revenues pledged in accordance with this section and the resolution authorizing their issuance.

(5) The state does covenant with the holders of bonds issued under this section that it will not repeal, impair, or amend this section in any manner which will materially and adversely affect the rights of bondholders as long as the bonds authorized by this section are outstanding.

(6) Any complaint for such validation of bonds issued pursuant to this section shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 69. Section 234.112, Florida Statutes, is repealed.

Section 70. Paragraph (a) of subsection (7) of section 288.9607, Florida Statutes, is amended to read:

288.9607 Guaranty of bond issues.—

(7)(a) The corporation is authorized to enter into an investment agreement with the Department of Transportation and the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(6)(b)~~(7)(b)~~. Such investment shall be limited as follows:

1. Not more than $4 million of the investment earnings earned on the investment of the minimum balance of the State Transportation Trust Fund in a fiscal year shall be at risk at any time on one or more bonds or series of bonds issued by the corporation.

2. The investment earnings shall not be used to guarantee any bonds issued after June 30, 1998, and in no event shall the investment earnings be used to guarantee any bond issued for a maturity longer than 15 years.

3. The corporation shall pay a reasonable fee, set by the State Board of Administration, in return for the investment of such funds. The fee shall not be less than the comparable rate for similar investments in terms of size and risk.

4. The proceeds of bonds, or portions thereof, issued by the corporation for which a guaranty has been or will be issued pursuant to s. 288.9606, s. 288.9608, or this section used to make loans to any one person, including any related interests, as defined in s. 658.48, of such person, shall not exceed 20 percent of the principal of all such outstanding bonds of the corporation issued prior to the first composite bond issue of the corporation, or December 31, 1995, whichever comes first, and shall not exceed 15 percent of the

principal of all such outstanding bonds of the corporation issued thereafter, in each case determined as of the date of issuance of the bonds for which such determination is being made and taking into account the principal amount of such bonds to be issued. The provisions of this subparagraph shall not apply when the total amount of all such outstanding bonds issued by the corporation is less than $10 million. For the purpose of calculating the limits imposed by the provisions of this subparagraph, the first $10 million of bonds issued by the corporation shall be taken into account.

5. The corporation shall establish a debt service reserve account which contains not less than 6 months' debt service reserves from the proceeds of the sale of any bonds, or portions thereof, guaranteed by the corporation.

6. The corporation shall establish an account known as the Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The corporation shall deposit a sum of money or other cash equivalents into this fund and maintain a balance of money or cash equivalents in this fund, from sources other than the investment of earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund, not less than a sum equal to 1 year of maximum debt service on all outstanding bonds, or portions thereof, of the corporation for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In the event the corporation fails to maintain the balance required pursuant to this subparagraph for any reason other than a default on a bond issue of the corporation guaranteed pursuant to this section or because of the use by the corporation of any such funds to pay insurance, maintenance, or other costs which may be required for the preservation of any project or other collateral security for any bond issued by the corporation, or to otherwise protect the Revenue Bond Guaranty Reserve Account from loss while the applicant is in default on amortization payments, or to minimize losses to the reserve account in each case in such manner as may be deemed necessary or advisable by the corporation, the corporation shall immediately notify the Department of Transportation of such deficiency. Any supplemental funding authorized by an investment agreement entered into with the Department of Transportation and the State Board of Administration concerning the use of investment earnings of the minimum balance of funds is void unless such deficiency of funds is cured by the corporation within 90 days after the corporation has notified the Department of Transportation of such deficiency.

Section 71. Subsection (3) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(3) The council shall prepare a 5-year Florida Seaport Mission Plan defining the goals and objectives of the council concerning the development of port facilities and an intermodal transportation system consistent with the goals of the Florida Transportation Plan developed pursuant to s. 339.155. The Florida Seaport Mission Plan shall include specific recommendations for the construction of transportation facilities connecting any port to another transportation mode and for the efficient, cost-effective development

of transportation facilities or port facilities for the purpose of enhancing international trade, promoting cargo flow, increasing cruise passenger movements, increasing port revenues, and providing economic benefits to the state. The council shall update the 5-year Florida Seaport Mission Plan annually and shall submit the plan no later than February 1 of each year to the President of the Senate; the Speaker of the House of Representatives; the Office of Tourism, Trade, and Economic Development; the Department of Transportation; and the Department of Community Affairs. The council shall develop programs, based on an examination of existing programs in Florida and other states, for the training of minorities and secondary school students in job skills associated with employment opportunities in the maritime industry, and report on progress and recommendations for further action to the President of the Senate and the Speaker of the House of Representatives annually~~, beginning no later than February 1, 1991~~.

Section 72. Subsection (16) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(16) "Project" means any development, improvement, property, launch, utility, facility, system, works, road, sidewalk, enterprise, service, or convenience, which may include coordination with Enterprise Florida, Inc. ~~the Florida High Technology and Industry Council~~, the Board of Regents, and the Space Research Foundation; any rocket, capsule, module, launch facility, assembly facility, operations or control facility, tracking facility, administrative facility, or any other type of space-related transportation vehicle, station, or facility; any type of equipment or instrument to be used or useful in connection with any of the foregoing; any type of intellectual property and intellectual property protection in connection with any of the foregoing including, without limitation, any patent, copyright, trademark, and service mark for, among other things, computer software; any water, wastewater, gas, or electric utility system, plant, or distribution or collection system; any small business incubator initiative, including any startup aerospace company, research and development company, research and development facility, storage facility, and consulting service; or any tourism initiative, including any space experience attraction, space-launch-related activity, and space museum sponsored or promoted by the authority.

Section 73. Subsections (1), (4), and (21) of section 331.305, Florida Statutes, are amended to read:

331.305 Powers of the authority.—The authority shall have the power to:

(1) Exercise all powers granted to corporations under the Florida Business ~~General~~ Corporation Act, chapter 607.

(4) Review and make recommendations with respect to a strategy to guide and facilitate the future of space-related educational and commercial development. The authority shall in coordination with the Federal Government, private industry, and Florida universities develop a business plan which shall address the expansion of Spaceport Florida locations, space

launch capacity, spaceport projects, and complementary activities, which shall include, but not be limited to, a detailed analysis of:

(a) The authority and the commercial space industry.

(b) Products, services description—potential, technologies, skills.

(c) Market research and evaluation—customers, competition, economics.

(d) Marketing plan and strategy.

(e) Design and development plan—tasks, difficulties, costs.

(f) Manufacturing locations, facilities, and operations plan.

(g) Management organization—roles and responsibilities.

(h) Overall schedule (monthly).

(i) Important risks, assumptions, and problems.

(j) Community impact—economic, human development, community development.

(k) Financial plan (monthly for first year; quarterly for next 3 years).

(l) Proposed authority offering—financing, capitalization, use of funds.

~~A final report containing the recommendations and business plan of the authority shall be completed and submitted prior to the 1990 Regular Session of the Legislature, along with any proposed statutory changes and related legislative budget requests required to implement the business plan, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.~~

(21) Issue revenue bonds, assessment bonds, or any other bonds or obligations authorized by the provisions of this act or any other law, or any combination of the foregoing, and pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects, including payloads and space flight hardware, and equipment for research, development, and educational activities, to provide for any facility, service, or other activity of the authority, and provide for the retirement or refunding of any bonds or obligations of the authority, or for any combination of the foregoing purposes. ~~Until December 31, 1994, bonds, other than conduit bonds, issued under the authority contained in this act shall not exceed a total of $500 million and must first be approved by a majority of the members of the Governor and Cabinet.~~ The authority must provide 14 days' notice to the presiding officers and appropriations chairs of both houses of the Legislature prior to presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of two-thirds of the members of the Governor and Cabinet.

Section 74. Subsection (2) of section 331.308, Florida Statutes, is amended to read:

331.308 Board of supervisors.—

(2) Initially, the Governor shall appoint four regular members for terms of 3 years or until successors are appointed and qualified and three regular members for terms of 4 years or until successors are appointed and qualified. Thereafter, each such member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. ~~The terms for such members initially appointed shall be construed to include the time between initial appointment and June 30, 1992, for those appointed for 3-year terms, and June 30, 1993, for those appointed for 4-year terms. No such member shall be allowed to serve an initial 3-year term or fill any vacancy for the remainder of a term for less than 4 years.~~ Appointment to the board shall not preclude any such member from holding any other private or public position.

Section 75. Subsection (1) of section 331.331, Florida Statutes, is amended to read:

331.331 Revenue bonds.—

(1) Revenue bonds issued by the authority shall not be deemed revenue bonds issued by the state or its agencies for purposes of s. 11, Art. VII of the State Constitution and ss. 215.57-215.83. ~~However, until December 31, 1994, the power of the authority to issue revenue bonds shall be limited as provided in s. 331.305.~~ The authority shall include in its annual report to the Governor and Legislature, as provided in s. 331.310, a summary of the status of existing and proposed bonding projects.

Section 76. Paragraph (d) of subsection (25) of section 334.03, Florida Statutes, is amended to read:

334.03 Definitions.—When used in the Florida Transportation Code, the term:

(25) "State Highway System" means the following, which shall be facilities to which access is regulated:

(d) The urban minor arterial mileage on the existing State Highway System as of July 1, 1987, plus additional mileage to comply with the 2-percent requirement as described below. ~~These urban minor arterial routes shall be selected in accordance with s. 335.04(1)(a) and (b).~~

However, not less than 2 percent of the public road mileage of each urbanized area on record as of June 30, 1986, shall be included as minor arterials in the State Highway System. Urbanized areas not meeting the foregoing minimum requirement shall have transferred to the State Highway System additional minor arterials of the highest significance in which case the total minor arterials in the State Highway System from any urbanized area shall not exceed 2.5 percent of that area's total public urban road mileage.

Section 77. Subsection (5) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

~~(5) The department shall prepare a report of its findings with respect to each such bridge or other structure whereon significant structural deficiencies were discovered and transmit a summary of the findings as part of the report required in s. 334.046(3).~~

Section 78. Section 335.165, Florida Statutes, is repealed.

Section 79. Subsection (2) of section 335.182, Florida Statutes, is amended to read:

335.182 Regulation of connections to roads on State Highway System; definitions.—

(2) The department shall~~, no later than July 1, 1989,~~ adopt, by rule, administrative procedures for its issuance and modification of access permits, closing of unpermitted connections, and revocation of permits in accordance with this act.

Section 80. Paragraphs (a) and (e) of subsection (3) of section 335.188, Florida Statutes, are amended to read:

335.188 Access management standards; access control classification system; criteria.—

(3) The control classification system shall be developed consistent with the following:

(a) The department shall~~, no later than July 1, 1990,~~ adopt rules setting forth procedures governing the implementation of the access control classification system required by this act. The rule shall provide for input from the entities described in paragraph (b) as well as for public meetings to discuss the access control classification system. Nothing in this act affects the validity of the department's existing or subsequently adopted rules concerning access to the State Highway System. Such rules shall remain in effect until repealed or replaced by the rules required by this act.

(e) An access control category shall be assigned to each segment of the State Highway System ~~by July 1, 1993~~.

Section 81. Section 336.01, Florida Statutes, is reenacted to read:

336.01 Designation of county road system.—The county road system shall be as defined in s. 334.03(8).

Section 82. Subsection (2) of section 336.044, Florida Statutes, is amended to read:

336.044 Use of recyclable materials in construction.—

(2) The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. To determine the feasibility of using certain recyclable materials for paving materials, the department may ~~shall before January 1, 1990,~~ undertake~~, as part of its currently scheduled projects,~~ demonstration projects using the following materials in road construction:

(a) Ground rubber from automobile tires in road resurfacing or subbase materials for roads;

(b) Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material;

(c) Recycled mixed-plastic material for guardrail posts or right-of-way fence posts;

(d) Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state; and

(e) Glass, and glass aggregates.

~~Within 1 year after the conclusion of the demonstration projects the department shall report to the Governor and the Legislature on the maximum percentage of each recyclable material that can be effectively utilized in road construction projects. Concurrent with the submission of the report the department shall review and modify its standard road and bridge construction specifications to allow and encourage the use of recyclable materials consistent with the findings of the demonstration projects.~~

Section 83. Subsection (7) of section 337.015, Florida Statutes, is amended to read:

337.015 Administration of public contracts.—Recognizing that the inefficient and ineffective administration of public contracts inconveniences the traveling public, increases costs to taxpayers, and interferes with commerce, the Legislature hereby determines and declares that:

~~(7) The department in its annual report required in s. 334.22(2) shall report how the department complied with this section for the preceding fiscal year.~~

Section 84. Section 337.139, Florida Statutes, is amended to read:

337.139 Efforts to encourage awarding contracts to disadvantaged business enterprises.—In implementing chapter 90-136, Laws of Florida, the Department of Transportation shall institute procedures to encourage the awarding of contracts for professional services and construction to disadvantaged business enterprises. For the purposes of this section, the term "disadvantaged business enterprise" means a small business concern certified by the Department of Transportation to be owned and controlled by socially and economically disadvantaged individuals as defined by the Surface Transpor-

tation and Uniform Relocation Act of 1987. The Department of Transportation shall develop and implement activities to encourage the participation of disadvantaged business enterprises in the contracting process ~~and shall report to the Legislature prior to January 1, 1991, on its efforts to increase disadvantaged business participation~~. Such efforts may include:

(1) Presolicitation or prebid meetings for the purpose of informing disadvantaged business enterprises of contracting opportunities.

(2) Written notice to disadvantaged business enterprises of contract opportunities for commodities or contractual and construction services which the disadvantaged business provides.

(3) Provision of adequate information to disadvantaged business enterprises about the plans, specifications, and requirements of contracts or the availability of jobs.

(4) Breaking large contracts into several single-purpose contracts of a size which may be obtained by certified disadvantaged business enterprises.

Section 85. Subsection (3) of section 337.29, Florida Statutes, is amended to read:

337.29 Vesting of title to roads; liability for torts.—

(3) Title to all roads transferred in accordance with the provisions of s. 335.0415 ~~335.04~~ shall be in the governmental entity to which such roads have been transferred, upon the recording of a right-of-way map by the appropriate governmental entity in the public land records of the county or counties in which such rights-of-way are located. To the extent that sovereign immunity has been waived, liability for torts shall be in the governmental entity having operation and maintenance responsibility as provided in s. 335.0415 ~~335.04(2)~~. Except as otherwise provided by law, a municipality shall have the same governmental, corporate, and proprietary powers with relation to any public road or right-of-way within the municipality which has been transferred to another governmental entity pursuant to s. 335.0415 ~~335.04~~ that the municipality has with relation to other public roads and rights-of-way within the municipality.

Section 86. Section 137 of chapter 96-320, Laws of Florida, is repealed.

Section 87. Subsection (2) of section 337.407, Florida Statutes, is amended to read:

337.407 Regulation of signs and lights within rights-of-way.—

(2) The department has the authority to direct removal of any sign erected in violation of subsection (1) ~~paragraph (a)~~, in accordance with the provisions of chapter 479.

Section 88. Section 338.22, Florida Statutes, is amended to read:

338.22 Florida Turnpike Law; short title.—Sections 338.22-338.241 ~~338.22-338.244~~ may be cited as the “Florida Turnpike Law.”

Section 89. Section 338.221, Florida Statutes, is amended to read:

338.221 Definitions of terms used in ss. 338.22-338.241 ~~338.22-338.244~~.—As used in ss. 338.22-338.241 ~~338.22-338.244~~, the following words and terms have the following meanings, unless the context indicates another or different meaning or intent:

(1) "Bonds" or "revenue bonds" means notes, bonds, refunding bonds or other evidences of indebtedness or obligations, in either temporary or definitive form, issued by the Division of Bond Finance on behalf of the department and authorized under the provisions of ss. 338.22-338.241 ~~338.22-338.2~~44 and the State Bond Act.

(2) "Cost," as applied to a turnpike project, includes the cost of acquisition of all land, rights-of-way, property, easements, and interests acquired by the department for turnpike project construction; the cost of such construction; the cost of all machinery and equipment, financing charges, fees, and expenses related to the financing; establishment of reserves to secure bonds; interest prior to and during construction and for such period after completion of construction as shall be determined by the department; the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues; other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such turnpike project; administrative expenses; and such other expenses as may be necessary or incident to the acquisition or construction of a turnpike project, the financing of such acquisition or construction, and the placing of the turnpike project in operation.

(3) "Feeder road" means any road no more than 5 miles in length, connecting to the turnpike system which the department determines is necessary to create or facilitate access to a turnpike project.

(4) "Owner" includes any person or any governmental entity that has title to, or an interest in, any property, right, easement, or interest authorized to be acquired pursuant to ss. 338.22-338.241 ~~338.22-338.244~~.

(5) "Revenues" means all tolls, charges, rentals, gifts, grants, moneys, and other funds coming into the possession, or under the control, of the department by virtue of the provisions hereof, except the proceeds from the sale of bonds issued under ss. 338.22-338.241 ~~338.22-338.244~~.

(6) "Turnpike system" means those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature.

(7) "Turnpike improvement" means any betterment necessary or desirable for the operation of the turnpike system, including, but not limited to, widenings, the addition of interchanges to the existing turnpike system, resurfacings, toll plazas, machinery, and equipment.

(8) "Economically feasible" means:

(a) For a proposed turnpike project, that, as determined by the department before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the debt service on the bonds by the end of the 5th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 15th year of operation. In implementing this paragraph, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.

(b) For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

This subsection does not prohibit the pledging of revenues from the entire turnpike system to bonds issued to finance or refinance a turnpike project or group of turnpike projects.

(9) "Turnpike project" means any extension to or expansion of the existing turnpike system and new limited access toll highways and associated feeder roads and other structures, interchanges, appurtenances, or rights as may be approved in accordance with the Florida Turnpike Law.

(10) "Statement of environmental feasibility" means a statement by the Department of Environmental Protection of the project's significant environmental impacts.

Section 90. Section 338.222, Florida Statutes, is reenacted to read:

338.222 Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.—

(1) No governmental entity other than the department may acquire, construct, maintain, or operate the turnpike system subsequent to the enactment of this law, except upon specific authorization of the Legislature.

(2) The department may contract with any local governmental entity as defined in s. 334.03(14) for the design, right-of-way acquisition, or construction of any turnpike project which the Legislature has approved. Local governmental entities may negotiate with the department for the design, right-of-way acquisition, and construction of any section of the turnpike project within areas of their respective jurisdictions or within counties with which they have interlocal agreements.

Section 91. Section 338.223, Florida Statutes, is reenacted and amended to read:

338.223 Proposed turnpike projects.—

(1)(a) Any proposed project to be constructed or acquired as part of the turnpike system and any turnpike improvement shall be included in the

tentative work program. No proposed project or group of proposed projects shall be added to the turnpike system unless such project or projects are determined to be economically feasible and a statement of environmental feasibility has been completed for such project or projects and such projects are determined to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located. The department may authorize engineering studies, traffic studies, environmental studies, and other expert studies of the location, costs, economic feasibility, and practicality of proposed turnpike projects throughout the state and may proceed with the design phase of such projects. The department shall not request legislative approval of a proposed turnpike project until the design phase of that project is at least 60 percent complete. If a proposed project or group of proposed projects is found to be economically feasible, consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located, and a favorable statement of environmental feasibility has been completed, the department, with the approval of the Legislature, shall, after the receipt of all necessary permits, construct, maintain, and operate such turnpike projects.

(b) Any proposed turnpike project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program pursuant to s. 339.135. Turnpike projects that add capacity, alter access, affect feeder roads, or affect the operation of the local transportation system shall be included in the transportation improvement plan of the affected metropolitan planning organization. If such turnpike project does not fall within the jurisdiction of a metropolitan planning organization, the department shall notify the affected county and provide for public hearings in accordance with s. 339.155(6)(c).

(c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided within 14 days, the Department of Transportation shall publish the notice in a newspaper to provide a 30-day public comment period. The headline of the required notice shall be in a type no smaller than 18 point. The notice shall be placed in that portion of the newspaper where legal notices appear. The notice shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community as provided in s. 50.031, not one of limited subject matter. Whenever possible, the notice shall appear in a newspaper that is published at least 5 days a week. The notice shall include, but is not limited to, the following information:

1. The purpose of the notice is to provide for a 30-day period for written public comments on the environmental impacts of a proposed turnpike project.

2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.

3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or other rights or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

(2)(a) Subject to the provisions of s. 338.228, the department is authorized to expend, out of any funds available for the purpose, such moneys as may be necessary for studies, preliminary engineering, construction, right-of-way acquisition, and construction engineering inspection of any turnpike project and is authorized to use its engineering and other resources for such purposes.

(b) In accordance with the legislative intent expressed in s. 337.273, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues.

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.241 ~~338.22-338.244~~ except when such reimbursement is prohibited by state or federal law.

(4) The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike projects. Federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project. For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed 0.5 percent of state transportation tax revenues for that fiscal year.

Section 92. Section 338.225, Florida Statutes, is amended to read:

338.225 Taking of public road for feeder road.—Before taking over any existing public road for maintenance and operation as a feeder road, the

department shall obtain the consent of the governmental entity then exercising jurisdiction over the road, which governmental entity is authorized to give such consent by resolution. Each feeder road or portion of a feeder road acquired, constructed, or taken over under this section for maintenance and operation shall, for all purposes of ss. 338.22-338.241 ~~338.22-338.244~~, be deemed to constitute a part of the turnpike system, except that no toll shall be charged for transit between points on such feeder road.

Section 93. Subsection (2) of section 338.227, Florida Statutes, is amended to read:

338.227 Turnpike revenue bonds.—

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided by ss. 338.22-338.241 ~~338.22-338.244~~ and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. All revenues and bond proceeds from the turnpike system received by the department pursuant to ss. 338.22-338.241 ~~338.22-338.244~~, the Florida Turnpike Law, shall be used only for the cost of turnpike projects and turnpike improvements and for the administration, operation, maintenance, and financing of the turnpike system. No revenues or bond proceeds from the turnpike system shall be spent for the operation, maintenance, construction, or financing of any project which is not part of the turnpike system.

Section 94. Section 338.228, Florida Statutes, is amended to read:

338.228 Bonds not debts or pledges of credit of state.—Turnpike revenue bonds issued under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. All such bonds shall contain a statement on their face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principal or interest of such bonds. The issuance of turnpike revenue bonds under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ does not directly, indirectly, or contingently obligate the state to levy or to pledge any form of taxation whatsoever, or to make any appropriation for their payment. Except as provided in ss. 338.001, 338.223, and 338.2275, no state funds shall be used on any turnpike project or to pay the principal or interest of any bonds issued to finance or refinance any portion of the turnpike system, and all such bonds shall contain a statement on their face to this effect.

Section 95. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to ss. 338.22-338.241 ~~338.22-338.244~~ that the state will not

limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in ss. 338.22-338.241 ~~338.22-338.244~~ or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged.

Section 96. Subsections (6) and (7) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(6) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds, the repayment of Broward County gasoline tax funds as provided in s. 338.2275(3)~~(4)~~, and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement shall establish that the Sawgrass Expressway shall be subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues shall be subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to provisions of any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.

(7) The use and disposition of revenues pledged to bonds are subject to the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ and such regulations as the resolution authorizing the issuance of such bonds or such trust agreement may provide.

Section 97. Section 338.232, Florida Statutes, is amended to read:

338.232 Continuation of tolls upon provision for payment of bondholders and assumption of maintenance by department.—When all revenue bonds

issued under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ in connection with the turnpike system and the interest on the bonds have been paid, or an amount sufficient to provide for the payment of all such bonds and the interest on the bonds to the maturity of the bonds, or such earlier date on which the bonds may be called, has been set aside in trust for the benefit of the bondholders, the department may assume the maintenance of the turnpike system as part of the State Highway System, except that the turnpike system shall remain subject to sufficient tolls to pay the cost of the maintenance, repair, improvement, and operation of the system and the construction of turnpike projects.

Section 98. Section 338.239, Florida Statutes, is amended to read:

338.239 Traffic control on the turnpike system.—

(1) The department is authorized to adopt rules with respect to the use of the turnpike system, which rules must relate to vehicular speeds, loads and dimensions, safety devices, rules of the road, and other matters necessary to carry out the purposes of ss. 338.22-338.241 ~~338.22-338.244~~. Insofar as these rules may be inconsistent with the provisions of chapter 316, the rules control. A violation of these rules must be punished pursuant to chapters 316 and 318.

(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. Expenses incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. 338.22-338.241 ~~338.22-338.244~~ may be treated as a part of the cost of the operation of the turnpike system, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the Department of Transportation for such expenses incurred on the turnpike mainline, which is that part of the turnpike system extending from the southern terminus in Florida City to the northern terminus in Wildwood including all contiguous sections.

Section 99. Subsection (4) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(4) The department may authorize the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(6)(b) ~~(7)(b)~~. Such investment shall be limited as provided in s. 288.9607(7).

Section 100. Section 339.091, Florida Statutes, is repealed.

Section 101. Paragraph (e) of subsection (7) of section 339.135, Florida Statutes, is reenacted to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding the requirements in paragraph (d) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34(3), and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget in the event that the delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and shall provide such parties written justification for the emergency action within 7 days of the approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. In no event may the adopted work program be amended under the provisions of this subsection without the certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

Section 102. Sections 339.145 and 339.147, Florida Statutes, are repealed.

Section 103. Paragraph (a) of subsection (10) of section 339.175, Florida Statutes, 1998 Supplement, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section ~~s. 339.155(5)~~.

Section 104. Paragraph (a) of subsection (7) of section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Council.—

(7)(a) The duties of the council shall be to:

1. Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.

2. Accept grant requests from local governments.

3. Review grant requests for compliance with council rules.

4. Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant's aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.

5. Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate, funding requirements for each stage shall be provided.

6. Assess the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways. In making such assessment, the council shall utilize data from other states which include indigenous wildflower and plant species in their highway vegetative management systems. ~~The council shall complete its assessment and present a report to the head of the department by July 1, 1988.~~

Section 105. Paragraph (g) of subsection (2) of section 339.241, Florida Statutes, is amended to read:

339.241 Florida Junkyard Control Law.—

(2) DEFINITIONS.—Wherever used or referred to in this section, unless a different meaning clearly appears from the context, the term:

(g) "Junk," "junkyard," and "scrap metal processing facility" mean the same as defined in 23 U.S.C. s. 136 ~~described in s. 205.371(1)(a), (b), and (e)~~.

Section 106. Section 341.051, Florida Statutes, is amended to read:

341.051 Administration and financing of public transit programs and projects.—

(1) FEDERAL AID.—

(a) The department is authorized to receive federal grants or apportionments for public transit projects in this state.

(b) Local governmental entities are authorized to receive federal grants or apportionments for public transit and commuter assistance projects. In addition, the provisions of s. 337.403 notwithstanding, if the relocation of

utility facilities is necessitated by the construction of a fixed-guideway public transit project and the utilities relocation is approved as a part of the project by a participating federal agency (if eligible for federal matching reimbursement), then any county chartered under s. 6(e), Art. VIII of the State Constitution shall pay at least 50 percent of the nonfederal share of the cost attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility. The balance of the nonfederal share shall be paid by the utility.

(2) PUBLIC TRANSIT PLAN.—

(a) The department shall prepare a public transit plan which shall be included in the tentative work program of the department prepared pursuant to s. 339.135(4). The provisions of s. 339.135 apply to public transit projects in the same manner that they apply to other transportation facility construction projects. Any planned department participation shall be in accordance with subsection (5).

(b) The public transit plan shall be consistent with the local plans developed in accordance with the comprehensive transportation planning process. Projects that involve funds administered by the department, and that will be undertaken and implemented by another public agency, shall be included in the public transit plan upon the request of that public agency, providing such project is eligible under the requirements established herein and subject to estimated availability of funds. Projects so included in the plan shall not be altered or removed from priority status without notice to the public agency or local governmental entities involved.

(3) APPROPRIATION REQUESTS.—

(a) Public transit funds shall be requested on the basis of the funding required for the public transit plan. Appropriation requests shall identify each public transit project calling for a state expenditure of $500,000 or more.

(b) Public transit service development projects and transit corridor projects shall be individually identified in the appropriation request by the department. Such request shall show a breakdown of funds showing capital and operating expense.

(c) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for a public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million.

(4) PROJECT ELIGIBILITY.—

(a) Any project that is necessary to meet the program objectives enumerated in s. 341.041, that conforms to the provisions of this section, and that is contained in the local transportation improvement program and the adopted work program of the department is eligible for the expenditure of state funds for transit purposes.

1. The project shall be a project for service or transportation facilities provided by the department under the provisions of this act, a public transit capital project, a commuter assistance project, a public transit service development project, or a transit corridor project.

2. The project must be approved by the department as being consistent with the criteria established pursuant to the provisions of this act.

(b) Such expenditures shall be in accordance with the fund participation rates and the criteria established in this section for project development and implementation, and are subject to approval by the department as being consistent with the Florida Transportation Plan and regional transportation goals and objectives.

(c) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for a public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million.

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

(a) The department may fund up to 50 percent of the nonfederal share of the costs, not to exceed the local share, of any eligible public transit capital project or commuter assistance project that is local in scope; except, however, that departmental participation in the final design, right-of-way acquisition, and construction phases of an individual fixed-guideway project which is not approved for federal funding shall not exceed an amount equal to 12.5 percent of the total cost of each phase.

(b) The Department of Transportation shall develop a major capital investment policy which shall include policy criteria and guidelines for the expenditure or commitment of state funds for public transit capital projects. The policy shall include the following:

1. Methods to be used to determine consistency of a transit project with the approved local government comprehensive plans of the units of local government in which the project is located.

2. Methods for evaluating the level of local commitment to a transit project, which is to be demonstrated through system planning and the development of a feasible plan to fund operating cost through fares, value capture techniques such as joint development and special districts, or other local funding mechanisms.

3. Methods for evaluating alternative transit systems including an analysis of technology and alternative methods for providing transit services in the corridor.

~~The department shall present such investment policy to both the Senate Transportation Committee and the House Public Transportation Committee along with recommended legislation by March 1, 1991.~~

(c) The department is authorized to fund up to 100 percent of the cost of any eligible transit capital project or commuter assistance project that is

statewide in scope or involves more than one county where no other governmental entity or appropriate jurisdiction exists.

(d) The department is authorized to advance up to 80 percent of the capital cost of any eligible project that will assist Florida's transit systems in becoming fiscally self-sufficient. Such advances shall be reimbursed to the department on an appropriate schedule not to exceed 5 years after the date of provision of the advances.

(e) The department is authorized to fund up to 100 percent of the capital and net operating costs of statewide transit service development projects or transit corridor projects. All transit service development projects shall be specifically identified by way of a departmental appropriation request, and transit corridor projects shall be identified as part of the planned improvements on each transportation corridor designated by the department. The project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the required service, and the criteria by which the success of the project will be judged shall be documented by the department for each such transit service development project or transit corridor project.

(f) The department is authorized to fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and that will improve system efficiencies, ridership, or revenues. All such projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:

1. Improving system operations, including, but not limited to, realigning route structures, increasing system average speed, decreasing deadhead mileage, expanding area coverage, and improving schedule adherence, for a period of up to 3 years;

2. Improving system maintenance procedures, including, but not limited to, effective preventive maintenance programs, improved mechanics training programs, decreasing service repair calls, decreasing parts inventory requirements, and decreasing equipment downtime, for a period of up to 3 years;

3. Improving marketing and consumer information programs, including, but not limited to, automated information services, organized advertising and promotion programs, and signing of designated stops, for a period of up to 2 years; and

4. Improving technology involved in overall operations, including, but not limited to, transit equipment, fare collection techniques, electronic data processing applications, and bus locators, for a period of up to 2 years.

For purposes of this section, the term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 107. Subsection (1) of section 341.321, Florida Statutes, is reenacted to read:

341.321 Development of high-speed rail transportation system; legislative findings, policy, purpose, and intent.—

(1) The intent of ss. 341.3201-341.386 is to further and advance the goals and purposes of the 1984 High Speed Rail Transportation Commission Act; to ensure a harmonious relationship between that act and the various growth management laws enacted by the Legislature including the Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161-163.3215, the Florida State Comprehensive Planning Act of 1972, as amended, ss. 186.001-186.031, the Florida Regional Planning Council Act, ss. 186.501-186.513, and the State Comprehensive Plan, chapter 187; to promote the implementation of these acts in an effective manner; and to encourage and enhance the establishment of a high-speed rail transportation system connecting the major urban areas of the state as expeditiously as is economically feasible. Furthermore, it is the intent of the Legislature that any high-speed rail line and transit station be consistent to the maximum extent feasible with local comprehensive plans, and that any other development associated with the rail line and transit station shall ultimately be consistent with comprehensive plans. The Legislature therefore reaffirms these enactments and further finds:

(a) That the implementation of a high-speed rail transportation system in the state will result in overall social and environmental benefits, improvements in ambient air quality, better protection of water quality, greater preservation of wildlife habitat, less use of open space, and enhanced conservation of natural resources and energy.

(b) That a high-speed rail transportation system, when used in conjunction with sound land use planning, becomes a vigorous force in achieving growth management goals and in encouraging the use of public transportation to augment and implement land use and growth management goals and objectives.

(c) That urban and social benefits include revitalization of blighted or economically depressed areas, the redirection of growth in a carefully and comprehensively planned manner, and the creation of numerous employment opportunities within inner-city areas.

(d) That transportation benefits include improved travel times and more reliable travel, hence increased productivity. High-speed rail is far safer than other modes of transportation and, therefore, travel-related deaths and injuries can be reduced, and millions of dollars can be saved from avoided accidents.

Section 108. Subsection (2) of section 341.3333, Florida Statutes, is amended to read:

341.3333 Application for franchise; confidentiality of application and trade secrets.—

(2) Each applicant, in response to the request for proposals, shall file its application with the department at the location and within the time and date limitations specified in the request for proposals. Applications filed before the deadline shall be kept sealed by the department until the time and date specified for opening. Such sealed applications shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the department provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or until 10 days after application opening, whichever is earlier. Thereafter, the applications are public. However, the applicant may segregate the trade secret portions of the application and request that the department maintain those portions as confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon award of a franchise, the franchisee may segregate portions of materials required to be submitted by the department and request that the department maintain those portions as confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such portions designated by an applicant or by the franchisee shall remain confidential and exempt from the provisions of s. 119.07(1) only if the department finds that the information satisfies the criteria established in s. 119.15(4)(b)3. ~~119.14(4)(b)3.~~

Section 109. Paragraphs (a) and (c) of subsection (2) of section 341.352, Florida Statutes, are amended to read:

341.352 Certification hearing.—

(2)(a) The parties to the certification proceeding are:

1. The franchisee.

~~2. The Department of Commerce.~~

2.~~3.~~ The Department of Environmental Protection.

3.~~4.~~ The Department of Transportation.

4.~~5.~~ The Department of Community Affairs.

5.~~6.~~ The Game and Fresh Water Fish Commission.

6.~~7.~~ Each water management district.

7.~~8.~~ Each local government.

8.~~9.~~ Each regional planning council.

9.~~10.~~ Each metropolitan planning organization.

(c) Notwithstanding the provisions of chapter 120 to the contrary, after the filing with the administrative law judge of a notice of intent to be a party by an agency or corporation or association described in subparagraph 1. or subparagraph 2., or a petition for intervention by a person described in subparagraph 3., no later than 30 days prior to the date set for the certification hearing, any of the following entities also shall be a party to the proceeding:

1. Any state agency not listed in paragraph (a), as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association that is formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; to promote economic development; or to promote the orderly development, or maintain the residential integrity, of the area in which the proposed high-speed rail transportation system is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

Section 110. Subsection (3) of section 343.64, Florida Statutes, 1998 Supplement, is amended to read:

343.64 Powers and duties.—

(3) The authority shall~~, by February 1, 1993,~~ develop and adopt a plan for the development of the Central Florida Commuter Rail. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of capital and operating costs, the service to be provided, and the extent to which counties within the area of operation of the authority are to be served. The plan shall be reviewed and updated annually. The plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government served by the authority.

Section 111. Subsection (3) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(3) The authority shall~~, by February 1, 1992,~~ develop and adopt a plan for the development of the Tampa Bay Commuter Rail or Commuter Ferry Service. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of operating and capital costs, the service to be provided and the extent to which counties within the authority are to be served. The plan shall be reviewed and updated annually. Such plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government served by the authority.

Section 112. Paragraph (c) of subsection (2) of section 348.0005, Florida Statutes, is amended to read:

348.0005 Bonds.—

(2)

(c) Said bonds shall be sold by the authority at public sale by competitive bid. However, if the authority, after receipt of a written recommendation

from a financial adviser, shall determine by official action after public hearing by a two-thirds vote of all voting members of the authority that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the county in which the authority exists. The authority shall provide specific findings in a resolution as to the reasons requiring the negotiated sale, which resolution shall incorporate and have attached thereto the written recommendation of the financial adviser required by this subsection ~~(4)~~.

Section 113. Section 348.0009, Florida Statutes, is amended to read:

348.0009 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of the Florida Expressway Authority Act with an authority. An authority may enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, and 339~~, and 340,~~ and other provisions of the laws of the state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of the Florida Expressway Authority Act.

Section 114. Section 348.248, Florida Statutes, is amended to read:

348.248 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to make and enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of this part with the authority. The authority is expressly authorized to make and enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, and 339~~, and 340~~ and other provisions of the laws of this state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of this state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of this part.

Section 115. Section 348.948, Florida Statutes, is amended to read:

348.948 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to make and enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of this part with the authority. The authority is expressly authorized to make and enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, and 339~~, and 340~~ and other provisions of the laws

of this state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of this state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of this part.

Section 116. Subsection (3) of section 349.05, Florida Statutes, is amended to read:

349.05 Bonds of the authority.—

(3) The authority may employ fiscal agents as provided by this chapter or the State Board of Administration may, upon request by the authority, act as fiscal agent for the authority in the issuance of any bonds that may be issued pursuant to this chapter ~~part~~, and the State Board of Administration may, upon request by the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this chapter ~~part~~. The authority may enter into deeds of trust, indentures, or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, assign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the Duval County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, thereunder. Such deed of trust, indenture, or other agreement, may contain such provisions as is customary in such instruments or, as the authority may authorize, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, the Jacksonville Expressway System, and the duties of the authority and others, including the department, with reference thereto;

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

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

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

Section 117. Section 378.411, Florida Statutes, is amended to read:

378.411 Certification to receive notices of intent to mine, to review and to inspect for compliance.—

(1) By petition to the secretary, a local government ~~or the Department of Transportation~~ may request certification to receive notices of intent to mine, to review, and to conduct compliance inspections.

(2) In deciding whether to grant certification to a local government, the secretary shall determine whether the following criteria are being met:

(a) The petitioning local government has adopted and effectively implemented a local government comprehensive plan.

(b) The local government has adequate review procedures and the financial and staffing resources necessary to assume responsibility for adequate review and inspection.

(c) The local government has a record of effectively reviewing, inspecting, and enforcing compliance with local ordinances and state laws.

~~(3) In deciding whether to grant certification to the Department of Transportation, the secretary shall request all information necessary to determine the capability of the Department of Transportation to meet the requirements of this part.~~

(3)~~(4)~~ In making his or her determination, the secretary shall consult with the Department of Community Affairs, the appropriate regional planning council, and the appropriate water management district.

(4)~~(5)~~ The secretary shall evaluate the performance of a local government ~~or the Department of Transportation~~ on a regular basis to ensure compliance with this section. All or part of the certification may be rescinded if the secretary determines that the certification is not being carried out pursuant to the requirements of this part.

(5)~~(6)~~ The department shall establish the certification procedure by rule.

Section 118. Paragraph (b) of subsection (1) of section 427.012, Florida Statutes, is amended to read:

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of the following members:

(b) The secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services or the secretary's designee.

Section 119. Subsection (16) of section 427.013, Florida Statutes, 1998 Supplement, is amended to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(16) Review and approve memorandums of agreement for the provision ~~provisions~~ of coordinated transportation services.

Section 120. Subsection (23) of section 479.01, Florida Statutes, is amended, and subsection (24) of that section is reenacted, to read:

479.01 Definitions.—As used in this chapter, the term:

(23) "Unzoned commercial or industrial area" means an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system where the land use is not covered by a future land use map or zoning regulation pursuant to subsection (3) ~~(2)~~, in which there are located three or more separate and distinct industrial or commercial uses located within a 1,600-foot radius of each other and generally recognized as commercial or industrial by zoning authorities in this state. Certain activities, including, but not limited to, the following, may not be so recognized:

(a) Signs.

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(c) Transient or temporary activities.

(d) Activities not visible from the main-traveled way.

(e) Activities conducted more than 660 feet from the nearest edge of the right-of-way.

(f) Activities conducted in a building principally used as a residence.

(g) Railroad tracks and minor sidings.

(24) "Urban area" has the same meaning as defined in s. 334.03(32).

Section 121. Section 951.05, Florida Statutes, is amended to read:

951.05 Working county prisoners on roads and bridges or other public works of the county; hiring out to another county.—The board of county commissioners of the several counties may require all county prisoners under sentence confined in the jail of their respective counties for any offense to labor upon the public roads, bridges, farms, or other public works owned and operated by the county, or on other projects for which the governing body of the county could otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of the county, or in the event the county commissioners of any county deem it to the best interest of their county, they may hire out their prisoners to any other county in the state to be worked upon the public roads, bridges, or other public works of that county, or on other projects for which the governing body of that county could otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of that county, or they may, upon such terms as may be agreed upon between themselves and ~~the Division of Road Operations of~~ the Department of Transportation, lease or let said prisoners to the department ~~division~~ instead of

keeping them in the county jail where they are sentenced. The money derived from the hire of such prisoners shall be paid to the county hiring out such prisoners and placed to the credit of the fine and forfeiture fund of the county.

Section 122. Section 2 of Senate Bill 182, enacted in the 1999 Regular Session of the Legislature, is amended to read:

Section 2. This act shall take effect July 1, 1999 ~~on the effective date of Senate Bill 178, relating to wireless emergency 911 telephone service, but it shall not take effect unless it is enacted by at least a three fifths vote of the membership of each house of the Legislature~~.

Section 123. This act shall take effect July 1, 1999.

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.