CHAPTER 2000-153

House Bill No. 1053

An act relating to the Florida Statutes; amending ss. 370.025, 370.12, 370.13, 373.461, 376.30714, 376.86, 381.0406, 381.734, 381.76, 381.78, 381.79, 393.064, 393.505, 395.1027, 395.404, 395.701, 400.464, 400.471, 400.491, 400.506, 400.805, 400.914, 402.310, 403.086, 403.0872, 403.088, 403.42, 403.518, 403.703, 403.705, 403.706, 403.708, 403.715, 403.718, 403.7191, 403.7199, 403.726, 403.788, 403.9415, 404.056, 408.05, 408.061, 408.07, 408.08, 408.704, 408.7042, 408.904, 409.145, 409.166, 409.1685, 409.1757, 409.2355, 409.2564, 409.2673, 409.821, 409.905, 409.910, 409.9116, 409.912, 409.913, 411.202, 411.242, 413.46, 414.065, 414.28, 414.39, 415.102, 415.1055, 415.107, 420.0004, 420.102, 420.37, 420.507, 420.508, 420.524, 420.525, 420.602, 420.609, 420.9072, 420.9073, 421.10, 421.33, 430.502, 435.03, 435.04, 440.02, 440.021, 440.14, 440.15, 440.185, 440.25, 440.38, 440.385, 440.49, 440.51, 443.036, 443.041, 443.111, 443.141, 443.151, 443.171, 443.191, 446.22, 446.25, 455.01, 455.557, 455.5651, 455.5653, 455.5654, 455.621, 458.311, 458.320, 459.0085, 459.018, 460.406, 462.09, 462.14, 466.014, 467.0135, 468.1655, 468.1695, 468.307, 468.505, 468.605, and 468.828, F.S.; and reenacting ss. 372.72(1), 415.1102, and 440.191(1), F.S., pursuant to s. 11.242, F.S.; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Paragraph (c) of subsection (4) of section 370.025, Florida Statutes, is amended to read:

370.025 Marine fisheries; policy and standards.—

(4) Pursuant to s. 9, Art. IV of the State Constitution, the commission has full constitutional rulemaking authority over marine life, and listed species as defined in s. 372.072(3), except for:

(c) Marine aquaculture products produced by an individual certified under s. 597.004. This exception does not apply to snook, prohibited and restricted marine species identified by rule of the commission, and rulemaking authority granted pursuant to s. 370.027 ~~370.027(4)~~.

Reviser's note.—Amended to conform to the deletion of the subunit designation of the material remaining in s. 370.027 following the repeal of s. 370.027(1), (2), and (3) by s. 40, ch. 99-245, Laws of Florida.

Section 2. Paragraph (r) of subsection (2) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(2) PROTECTION OF MANATEES OR SEA COWS.—

(r) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection shall be guilty of a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b) ~~370.021(2)(a) or (b)~~.

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.

2. This paragraph does not apply to persons violating restrictions governing "No Entry" zones or "Motorboat Prohibited" zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b) ~~370.021(2)(a) or (b)~~, or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).

Reviser's note.—Amended to conform to the redesignation of s. 370.021(2) as s. 370.021(1) by s. 95, ch. 99-245, Laws of Florida.

Section 3. Subsection (7) of section 370.13, Florida Statutes, is amended to read:

370.13 Stone crab; regulation.—

(7) ~~Beginning October 1995,~~ Stone crabs shall be designated as a restricted species pursuant to s. 370.01(21) ~~370.01(20)~~.

Reviser's note.—Amended to delete a provision that has served its purpose and to conform to the redesignation of s. 370.01(20) as s. 370.01(21) by s. 94, ch. 99-245, Laws of Florida.

Section 4. Subsection (1) of section 372.72, Florida Statutes, is reenacted to read:

372.72 Disposition of fines, penalties, and forfeitures.—

(1) All moneys collected from fines, penalties, or forfeitures of bail of persons convicted under this chapter shall be deposited in the fine and forfeiture fund of the county where such convictions are had, except for the disposition of moneys as provided in subsection (2).

Reviser's note.—Section 156, ch. 99-245, Laws of Florida, purported to amend entire s. 372.72, but failed to publish subsection (1). In the absence of affirmative evidence that the Legislature intended to repeal subsection (1), coupled with the fact that the amendment by s. 156, ch. 99-245, affirmatively evidences an intent to preserve the existing subsection structure of s. 372.72, subsection (1) is reenacted to confirm that the omission was not intended.

Section 5. Paragraph (f) of subsection (5) of section 373.461, Florida Statutes, is amended to read:

373.461 Lake Apopka improvement and management.—

(5) PURCHASE OF AGRICULTURAL LANDS.—

(f)1. Tangible personal property acquired by the district as part of related facilities pursuant to this section, and classified as surplus by the district, shall be sold by the Department of Management Services. The Department of Management Services shall deposit the proceeds of such sale in the Economic Development Trust Fund in the Executive Office of the Governor. The proceeds shall be used for the purpose of providing economic and infrastructure development in portions of northwestern Orange County and east central Lake County which will be adversely affected economically due to the acquisition of lands pursuant to this subsection.

2. The Office of Tourism, Trade, and Economic Development shall, upon presentation of the appropriate documentation justifying expenditure of the funds deposited pursuant to this paragraph, pay any obligation for which it has sufficient funds from the proceeds of the sale of tangible personal property and which meets the limitations specified in paragraph (g) ~~(h)~~. The authority of the Office of Tourism, Trade, and Economic Development to expend such funds shall expire 5 years from the effective date of this paragraph. Such expenditures may occur without future appropriation from the Legislature.

3. Funds deposited under this paragraph may not be used for any purpose other than those enumerated in paragraph (g) ~~(h)~~.

Reviser's note.—Amended to conform to the redesignation of paragraph (5)(h) as paragraph (5)(g) following the deletion of proposed paragraph (5)(g) from 1997 Committee Substitute for Senate Bill 1486, which became ch. 97-81, Laws of Florida, by House Amendment 1; see Journal of the House of Representatives 1997, p. 1048.

Section 6. Paragraph (b) of subsection (1) of section 376.30714, Florida Statutes, is amended to read:

376.30714 Site rehabilitation agreements.—

(1) In addition to the legislative findings provided in s. 376.3071, the Legislature finds and declares:

(b) While compliance with the department's rules pertaining to storage tank systems is expected to significantly diminish the occurrence and extent of discharges of petroleum products from petroleum storage systems, discharges from these systems and discharges at sites with existing contamination which have been determined to be eligible for state-funded cleanup may still occur. In some cases, it may be difficult to distinguish between discharges that have been determined to be eligible for state funding and ~~from~~ those discharges reported after December 31, 1998, which are not eligible for state funding.

Reviser's note.—Amended to improve clarity.

Section 7. Subsection (2) of section 376.86, Florida Statutes, is amended to read:

376.86 Brownfield Areas Loan Guarantee Program.—

(2) The council shall consist of the secretary of the Department of Environmental Protection or the secretary's designee, the secretary of the Department of Community Affairs or the secretary's designee, the Executive Director of the State Board of Administration or the executive director's designee, the Executive Director of the Florida Housing Finance Corporation ~~Agency~~ or the executive director's designee, and the Director of the Governor's Office of Tourism, Trade, and Economic Development or the director's designee. The chairperson of the council shall be the Director of the Governor's Office of Tourism, Trade, and Economic Development. Staff services for activities of the council shall be provided as needed by the member agencies.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 8. Subsection (13) of section 381.0406, Florida Statutes, is amended to read:

381.0406 Rural health networks.—

(13) TRAUMA SERVICES.—In those network areas which have an established trauma agency approved by the Department of Health, that trauma agency must be a participant in the network. Trauma services provided within the network area must comply with s. 395.405 ~~395.037~~.

Reviser's note.—Amended to conform to the transfer of s. 395.037 to s. 395.405 by s. 43, ch. 92-289, Laws of Florida.

Section 9. Subsection (2) of section 381.734, Florida Statutes, is amended to read:

381.734 Healthy Communities, Healthy People Program.—

(2) The department shall consolidate and use existing resources, programs, and program data to develop this program, to avoid duplication of efforts or services. Such resources, programs, and program data shall include, but not be limited to, ~~s. 381.103,~~ the comprehensive health improvement project under s. 385.103~~,~~ and the comprehensive public health plan, public information, and statewide injury control plan under s. 381.0011(3), (8), and (12).

Reviser's note.—Amended to facilitate correct interpretation. At the time the reference to s. 381.103 was enacted by s. 109, ch. 92-33, Laws of Florida, no such section existed. Subsequently, a s. 381.103 was created by s. 12, ch. 99-356, Laws of Florida.

Section 10. Paragraph (a) of subsection (1) of section 381.76, Florida Statutes, is amended to read:

381.76 Eligibility for the brain and spinal cord injury program.—

(1) An individual shall be accepted as eligible for the brain and spinal cord injury program following certification by the department that the individual:

(a) Has been referred to the central registry pursuant to s. 381.74 ~~413.48~~.

Reviser's note.—Amended to conform to the transfer of s. 413.48 to s. 381.74 by s. 18, ch. 99-240, Laws of Florida.

Section 11. Subsection (4) of section 381.78, Florida Statutes, is amended to read:

381.78 Advisory council on brain and spinal cord injuries.—

(4) The council shall:

(a) Provide advice and expertise to the division in the preparation, implementation, and periodic review of the brain and spinal cord injury program as referenced in s. 381.75 ~~413.49~~.

(b) Annually appoint a five-member committee composed of one person who has a brain injury or has a family member with a brain injury, one person who has a spinal cord injury or has a family member with a spinal cord injury, and three members who shall be chosen from among these representative groups: physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups with expertise in areas related to the rehabilitation of persons who have brain or spinal cord injuries, except that one and only one member of the committee shall be an administrator of a transitional living facility. Membership on the council is not a prerequisite for membership on this committee.

1. The committee shall perform onsite visits to those transitional living facilities identified by the Agency for Health Care Administration as being in possible violation of the statutes and rules regulating such facilities. The committee members have the same rights of entry and inspection granted under s. 400.805(8) ~~400.805(7)~~ to designated representatives of the agency.

2. Factual findings of the committee resulting from an onsite investigation of a facility pursuant to subparagraph 1. shall be adopted by the agency in developing its administrative response regarding enforcement of statutes and rules regulating the operation of the facility.

3. Onsite investigations by the committee shall be funded by the Health Care Trust Fund.

4. Travel expenses for committee members shall be reimbursed in accordance with s. 112.061. Members of the committee shall recuse themselves

from participating in any investigation that would create a conflict of interest under state law, and the council shall replace the member, either temporarily or permanently.

Reviser's note.—Paragraph (4)(a) is amended to conform to the transfer of s. 413.49 to s. 381.75 by s. 19, ch. 99-240, Laws of Florida. Paragraph (4)(b) is amended to conform to the redesignation of s. 400.805(7) as s. 400.805(8) by the reviser incident to compiling the 1998 Supplement to the Florida Statutes 1997.

Section 12. Subsection (1) of section 381.79, Florida Statutes, is amended to read:

381.79 Brain and Spinal Cord Injury Rehabilitation Trust Fund.—

(1) There is created in the State Treasury the Brain and Spinal Cord Injury Rehabilitation Trust Fund. Moneys in the fund shall be appropriated to the department for the purpose of providing the cost of care for brain or spinal cord injuries as a payor of last resort to residents of this state, for multilevel programs of care established pursuant to s. 381.75 ~~413.49~~.

(a) Authorization of expenditures for brain or spinal cord injury care shall be made only by the department.

(b) Authorized expenditures include acute care, rehabilitation, transitional living, equipment, and supplies necessary for activities of daily living, public information, prevention, education, and research.

Reviser's note.—Amended to conform to the transfer of s. 413.49 to s. 381.75 by s. 19, ch. 99-240, Laws of Florida.

Section 13. Subsection (2) of section 393.064, Florida Statutes, is amended to read:

393.064 Prevention.—

(2) Prevention services provided by the developmental services program include services to high-risk and developmentally disabled children from birth to 5 years of age, and their families, to meet the intent of chapter 411. Such services shall include individual evaluations or assessments necessary to diagnose a developmental disability or high-risk condition and to determine appropriate individual family and support services, unless evaluations or assessments are the responsibility of the Division of Children's Medical Services Prevention and Intervention for children ages birth to 3 years eligible for services under this chapter or part H of the Individuals with Disabilities Education Act, and may include:

(a) Early intervention services, including developmental training and specialized therapies. Early intervention services, which are the responsibility of the Division of Children's Medical Services Prevention and Intervention for children ages birth to 3 years who are eligible for services under this chapter or under part H of the Individuals with Disabilities Education Act, shall not be provided through the developmental services program unless

funding is specifically appropriated to the developmental services program for this purpose.

(b) Support services, such as respite care, parent education and training, parent-to-parent counseling, homemaker services, and other services which allow families to maintain and provide quality care to children in their homes. The Division of Children's Medical Services Prevention and Intervention is responsible for the provision of services to children from birth to 3 years who are eligible for services under this chapter.

Reviser's note.—Amended to conform to the reorganization of divisions of the Department of Health by ch. 99-397, Laws of Florida.

Section 14. Section 393.505, Florida Statutes, is amended to read:

393.505 Comprehensive day treatment services; demonstration projects.—The Department of Children and Family Services ~~Families~~ is authorized to initiate projects to demonstrate the effectiveness of comprehensive day treatment service to the developmentally disabled to remain in their homes and/or communities.

Reviser's note.—Amended to conform to the official title of the department pursuant to s. 20.19.

Section 15. Subsections (1) and (3) of section 395.1027, Florida Statutes, are amended to read:

395.1027 Regional poison control centers.—

(1) There shall be created three accredited regional poison control centers, one each in the north, central, and southern regions of the state. Each regional poison control center shall be affiliated with and physically located in a certified Level I trauma center. Each regional poison control center shall be affiliated with an accredited medical school or college of pharmacy. The regional poison control centers shall be coordinated under the aegis of the Division of Children's Medical Services Prevention and Intervention in the department.

(3) The Legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive directly from designated regional poison control centers telephonic management advice for acute poisoning emergencies. To facilitate rapid and direct access, telephone numbers for designated regional poison control centers shall be given special prominence. The local exchange telecommunications companies shall print immediately below "911" or other emergency calling instructions on the inside front cover of the telephone directory the words "Poison Information Center," the logo of the American Association of Poison Control Centers, and the telephone number of the local, if applicable, or, if not local, other toll-free telephone number of the Florida Poison Information Center Network. This information shall be outlined and be no less than 1 inch in height by 2 inches in width. Only those facilities satisfying criteria established in the current "Criteria for Certification of a Regional Poison Center" set by the American Association of Poison Control Centers, and the

"Standards of the Poison Information Center Program" initiated by the Division of Children's Medical Services Prevention and Intervention of the Department of Health shall be permitted to list such facility as a poison information center, poison control center, or poison center. Those centers under a developmental phase-in plan shall be given 2 years from the date of initial 24-hour service implementation to comply with the aforementioned criteria and, as such, will be permitted to be listed as a poison information center, poison control center, or poison center during that allotted time period.

Reviser's note.—Amended to conform to the reorganization of divisions of the Department of Health by ch. 99-397, Laws of Florida.

Section 16. Subsection (2) of section 395.404, Florida Statutes, is amended to read:

395.404 Review of trauma registry data; confidentiality and limited release.—

(2) Notwithstanding the provisions of s. 381.74 ~~413.48~~, each trauma center and acute care hospital shall submit severe disability and head-injury registry data to the department as provided by rule in lieu of submitting such registry information to the Department of Labor and Employment Security. Each trauma center and acute care hospital shall continue to provide initial notification of persons who have severe disabilities and head injuries to the Department of Labor and Employment Security within timeframes provided in chapter 413. Such initial notification shall be made in the manner prescribed by the Department of Labor and Employment Security for the purpose of providing timely vocational rehabilitation services to the severely disabled or head-injured person.

Reviser's note.—Amended to conform to the transfer of s. 413.48 to s. 381.74 by s. 18, ch. 99-240, Laws of Florida.

Section 17. Paragraph (c) of subsection (1) of section 395.701, Florida Statutes, is amended to read:

395.701 Annual assessments on net operating revenues to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(1) For the purposes of this section, the term:

(c) "Hospital" means a health care institution as defined in s. 395.002(13) ~~395.002(11)~~, but does not include any hospital operated by the agency or the Department of Corrections.

Reviser's note.—Amended to conform to the fact that the term "hospital" was defined in s. 395.002(12) in the Florida Statutes 1997 and the redesignation of s. 395.002(12) as s. 395.002(13) by the reviser incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 18. Paragraph (b) of subsection (6) of section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(6) The following are exempt from the licensure requirements of this part:

(b) Home health services provided by a state agency, either directly or through a contractor with:

1. The Department of Elderly Affairs.

2. The Department of Health, a community health center, or a rural health network that furnishes home visits for the purpose of providing environmental assessments, case management, health education, personal care services, family planning, or followup treatment, or for the purpose of monitoring and tracking disease.

3. Services provided to persons who have developmental disabilities, as defined in s. 393.063(11).

4. Companion and sitter organizations that were registered under s. 400.509(1) ~~440.509(1)~~ on January 1, 1999, and were authorized to provide personal services under s. 393.063(35) under a developmental services provider certificate on January 1, 1999, may continue to provide such services to past, present, and future clients of the organization who need such services, notwithstanding the provisions of this act.

5. The Department of Children and Family Services.

Reviser's note.—Amended to facilitate correct interpretation. The referenced s. 440.509(1) does not exist; s. 400.509(1) relates to registration of companion and sitter organizations.

Section 19. Subsection (2) of section 400.471, Florida Statutes, is amended to read:

400.471 Application for license; fee; provisional license; temporary permit.—

(2) The applicant must file with the application satisfactory proof that the home health agency is in compliance with this part and applicable rules, including:

(a) A listing of services to be provided, either directly by the applicant or through contractual arrangements with existing providers;

(b) The number and discipline of professional staff to be employed; and

(c) Proof of financial ability to operate.

If the applicant has applied for a certificate of need under ss. 408.031-408.045 ~~408.0331-408.045~~ within the preceding 12 months, the applicant may submit the proof required during the certificate-of-need process along

with an attestation that there has been no substantial change in the facts and circumstances underlying the original submission.

Reviser's note.—Amended to facilitate correct interpretation. The referenced s. 408.0331 does not exist; ss. 408.031-408.045 comprise the Health Facility and Services Development Act.

Section 20. Subsection (1) of section 400.491, Florida Statutes, is amended to read:

400.491 Clinical records.—

(1) The home health agency must maintain for each patient who receives skilled care a clinical record that includes pertinent past and current medical, nursing, social and other therapeutic information, the treatment orders, and other such information as is necessary for the safe and adequate care of the patient. When home health services are terminated, the record must show the date and reason for termination. Such records are considered patient records under s. 455.667 ~~455.241~~, and must be maintained by the home health agency for 5 years following termination of services. If a patient transfers to another home health agency, a copy of his or her record must be provided to the other home health agency upon request.

Reviser's note.—Amended to conform to the transfer of s. 455.241 to s. 455.667 by s. 82, ch. 97-261, Laws of Florida.

Section 21. Subsection (13) of section 400.506, Florida Statutes, is amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(13) Each nurse registry must comply with the procedures set forth in s. 400.497(2) ~~400.497(3)~~ for maintaining records of the employment history of all persons referred for contract and is subject to the standards and conditions set forth in s. 400.512. However, an initial screening may not be required for persons who have been continuously registered with the nurse registry since September 30, 1990.

Reviser's note.—Amended to conform to the redesignation of s. 400.497(3) as s. 400.497(2) by s. 9, ch. 99-332, Laws of Florida.

Section 22. Paragraph (c) of subsection (2) and paragraph (b) of subsection (6) of section 400.805, Florida Statutes, are amended to read:

400.805 Transitional living facilities.—

(2)

(c) The agency may not issue a license to an applicant until the agency receives notice from the department as provided in paragraph (6)(b) ~~(5)(b)~~.

(6)

(b) The department shall adopt rules in consultation with the agency governing the services provided to clients of transitional living facilities. The

department shall enforce all requirements for providing services to the facility's clients. The department must notify the agency when it determines that an applicant for licensure meets the service requirements adopted by the department ~~division~~.

Reviser's note.—Paragraph (2)(c) is amended to conform to the redesignation of paragraph (5)(b) as paragraph (6)(b) by s. 60, ch. 98-171, Laws of Florida. Paragraph (6)(b) is amended to conform to the substitution by s. 16, ch. 99-240, Laws of Florida, of the term "department" for the term "division" in all other locations within s. 400.805, including the definition of "division."

Section 23. Subsection (1) of section 400.914, Florida Statutes, is amended to read:

400.914 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities and healthful programs, the agency in conjunction with the Division of Children's Medical Services Prevention and Intervention of the Department of Health shall adopt and publish rules to implement the provisions of this part, which shall include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or city ordinances shall be resolved in favor of those having statewide effect. Such standards shall relate to:

(a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services.

(b) The maintenance of PPEC centers, not in conflict with the provisions of chapter 553 and based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served.

(c) The appropriate provisions of the most recent edition of the "Life Safety Code" (NFPA-101) shall be applied.

(d) The number and qualifications of all personnel who have responsibility for the care of the children served.

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served.

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians.

(g) Supportive, contracted, other operational, and transportation services.

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs. Such records shall be maintained in the facility for inspection by the agency.

Reviser's note.—Amended to conform to the reorganization of divisions of the Department of Health by ch. 99-397, Laws of Florida.

Section 24. Paragraph (b) of subsection (1) of section 402.310, Florida Statutes, is amended to read:

402.310 Disciplinary actions; hearings upon denial, suspension, or revocation of license; administrative fines.—

(1)

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. 402.301-402.319 ~~this part~~ have been violated.

2. Actions taken by the licensee to correct the violation or to remedy complaints.

3. Any previous violations of the licensee.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 402 is not divided into parts; s. 402.310(1)(a) indicates that the section relates to violations of ss. 402.301-402.319.

Section 25. Subsection (6) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(6) ~~As of July 10, 1987,~~ Any facility covered in paragraph (1)(c) shall be permitted to discharge if it meets the standards set forth in subsections (4) and (5). ~~Facilities that do not meet the standards in subsections (4) and (5) as of July 10, 1987, may be permitted to discharge under existing law until October 1, 1990. On and after October 1, 1990,~~ All of the facilities covered in paragraph (1)(c) shall be required to meet the standards set forth in subsections (4) and (5).

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

Section 26. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must

obtain from the department an operation permit for a major source of air pollution under this section, which is the only department operation permit for a major source of air pollution required for such source. Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail:

(11) ~~Commencing in 1993,~~ Each major source of air pollution permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent construction or operation permit, times the annual hours of operation allowed by permit condition; provided, however, that:

1. ~~For 1993 and 1994, the license fee factor is $10. For 1995, the license fee factor is $25. In succeeding years,~~ The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35. ~~The department shall retain a nationally recognized accounting firm to conduct a study to determine the reasonable revenue requirements necessary to support the development and administration of the major source air-operation permit program as prescribed in paragraph (b). The results of that determination must be considered in assessing whether a $25-per-ton fee factor is sufficient to adequately fund the major source air-operation permit program. The results of the study must be presented to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Public Service Commission, including the Public Counsel's Office, by no later than October 31, 1994.~~

2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is depen-

dent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.

3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.

4. For any new source that does not receive its first operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not allowed to operate.

5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.

6. The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

7. If the department has not received the fee by February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by March 1. If the fee is not postmarked by March 1 of the calendar year, ~~commencing with calendar year 1997,~~ the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

8. During the years 1993 through 1999, inclusive, no fee shall be required to be paid under this section with respect to emissions from any unit which is an affected unit under 42 U.S.C. s. 7651c.

9. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section shall not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 shall not exceed $50 per year.

10. Notwithstanding the provisions of s. 403.087(6)(a)4.a., authorizing air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to the provisions of s. 403.087(6)(a)4.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. ~~The study conducted under subparagraph (a)1. and~~ Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protec-

tion Agency has given full approval of the program, or by the end of 1996, whichever comes later, to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Reviser's note.—Amended to delete language that has served its purpose.

Section 27. Subsection (1) of section 403.088, Florida Statutes, is amended to read:

403.088 Water pollution operation permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health, in the case of insect control, or the department, in the case of aquatic weed or algae control. The department is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, and safety, as well as environmental factors. Approved programs must provide that only chemicals approved for the particular use by the United States Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, ~~part I of~~ chapter 487.

Reviser's note.—Amended to conform to the fact that chapter 487 is no longer divided into parts following the repeal of the provisions of former part II by s. 21, ch. 99-4, Laws of Florida.

Section 28. Paragraph (b) of subsection (3) of section 403.42, Florida Statutes, is amended to read:

403.42 Florida Clean Fuel Act.—

(3) CLEAN FUEL FLORIDA ADVISORY BOARD ESTABLISHED; MEMBERSHIP; DUTIES AND RESPONSIBILITIES.—

(b)1. The advisory board shall consist of the Secretary of Community Affairs, or a designee from that department, the Secretary of Environmental Protection, or a designee from that department, the Commissioner ~~Secretary~~ of Education, or a designee from that department, the Secretary of Transportation, or a designee from that department, the Commissioner of Agriculture, or a designee from the Department of Agriculture and Consumer Services, the Secretary of Management Services, or a designee from that department, and a representative of each of the following, who shall be appointed by the Secretary of Community Affairs within 30 days after the effective date of this act:

a. The Florida biodiesel industry.

b. The Florida electric utility industry.

c. The Florida natural gas industry.

d. The Florida propane gas industry.

e. An automobile manufacturers' association.

f. A Florida Clean Cities Coalition designated by the United States Department of Energy.

g. Enterprise Florida, Inc.

h. EV Ready Broward.

i. The Florida petroleum industry.

j. The Florida League of Cities.

k. The Florida Association of Counties.

l. Floridians for Better Transportation.

m. A motor vehicle manufacturer.

n. Florida Local Environment Resource Agencies.

o. Project for an Energy Efficient Florida.

p. Florida Transportation Builders Association.

2. The purpose of the advisory board is to serve as a resource for the department and to provide the Governor, the Legislature, and the Secretary of Community Affairs with private sector and other public agency perspectives on achieving the goal of increasing the use of alternative fuel vehicles in this state.

3. Members shall be appointed to serve terms of 1 year each, with reappointment at the discretion of the Secretary of Community Affairs. Vacancies shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

4. The board shall annually select a chairperson.

5.a. The board shall meet at least once each quarter or more often at the call of the chairperson or the Secretary of Community Affairs.

b. Meetings are exempt from the notice requirements of chapter 120, and sufficient notice shall be given to afford interested persons reasonable notice under the circumstances.

6. Members of the board are entitled to travel expenses while engaged in the performance of board duties.

7. The board shall terminate 5 years after the effective date of this act.

Reviser's note.—Amended to conform to the title of the head of the Department of Education as provided in s. 20.15.

Section 29. Paragraph (a) of subsection (1) of section 403.518, Florida Statutes, is amended to read:

403.518 Fees; disposition.—

(1) The department shall charge the applicant the following fees, as appropriate, which shall be paid into the Florida Permit Fee Trust Fund:

(a) A fee for a notice of intent pursuant to s. 403.5063 ~~403.5065~~, in the amount of $2,500, to be submitted to the department at the time of filing of a notice of intent. The notice-of-intent fee shall be used and disbursed in the same manner as the application fee.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 403.5065 does not reference a notice of intent; notice of intent is covered in s. 403.5063.

Section 30. Paragraph (b) of subsection (17) of section 403.703, Florida Statutes, is amended to read:

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

(17) "Construction and demolition debris" means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes:

(b) ~~Effective January 1, 1997,~~ Except as provided in s. 403.707(12)(j) ~~403.707(13)(j)~~, unpainted, nontreated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, nontreated wood pallets provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and

Reviser's note.—Amended to delete language that has served its purpose and to conform to the redesignation of s. 403.707(13)(j) as s. 403.707(12)(j) necessitated by the repeal of former s. 403.707(8) by s. 4, ch. 96-284, Laws of Florida.

Section 31. Paragraph (f) of subsection (3) of section 403.705, Florida Statutes, is amended to read:

403.705 State solid waste management program.—

(3) The state solid waste management program shall include, at a minimum:

(f) Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of the solid wastes prohibited from disposal in landfills under s. 403.708(13) ~~403.708(15)~~ and for special wastes.

Reviser's note.—Amended to conform to the redesignation of s. 403.708(15) as s. 403.708(13) necessitated by the deletion of former subsection (10) by s. 18, ch. 93-207, Laws of Florida, and the further redesignation of subunits necessitated by the deletion of former subsection (3) by s. 1, ch. 97-23, Laws of Florida.

Section 32. Subsection (1) and paragraph (b) of subsection (4) of section 403.706, Florida Statutes, are amended to read:

403.706 Local government solid waste responsibilities.—

(1) The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Unless otherwise approved by an interlocal agreement or special act, municipalities may not operate solid waste disposal facilities unless a municipality demonstrates by a preponderance of the evidence that the use of a county designated facility, when compared to alternatives proposed by the municipality, places a significantly higher and disproportionate financial burden on the citizens of the municipality when compared to the financial burden placed on persons residing within the county but outside of the municipality. However, a municipality may construct and operate a resource recovery facility and related onsite solid waste disposal facilities without an interlocal agreement with the county if the municipality can demonstrate by a preponderance of the evidence that the operation of such facility will not significantly impair financial commitments made by the county with respect to solid waste management services and facilities or result in significantly increased solid waste management costs to the remaining persons residing within the county but not served by the municipality's facility. This section shall not prevent a municipality from continuing to operate or use an existing disposal facility permitted on or prior to October 1, 1988. Any municipality which establishes a solid waste disposal facility under this subsection and subsequently abandons such facility shall be responsible for the payment of any capital expansion necessary to accommodate the municipality's solid waste for the remaining projected useful life of the county disposal facility. Pursuant to this section and notwithstanding any other provision of this chapter, counties shall have the power and authority to adopt ordinances governing the disposal of solid waste generated outside of the county at the county's solid waste disposal facility. In accordance with this section, municipalities are responsible for collecting and transporting solid waste from

their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. The fees charged to municipalities at a solid waste management facility specified by the county shall not be greater than the fees charged to other users of the facility except as provided in s. 403.7049(5) ~~403.7049(4)~~. Solid waste management fees collected on a countywide basis shall be used to fund solid waste management services provided countywide.

(4)

(b) Notwithstanding the limitation on the waste reduction goal in paragraph (a), a county may receive credit for one-half of the goal for waste reduction from one or a combination of the following:

1. The use of pelletized paper waste as a supplemental fuel in permitted boilers other than waste-to-energy facilities.

2. The use of yard trash, or other clean wood waste or paper waste, in innovative programs including, but not limited to, programs that produce alternative clean-burning fuels such as ethanol or that provide for the conversion of yard trash or other clean wood waste or paper waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in s. 403.7061 ~~403.7895~~. The provisions of this subparagraph only apply if a county can demonstrate that:

a. The county has implemented a yard trash mulching or composting program, and

b. As part of the program, compost and mulch made from yard trash is available to the general public and in use at county-owned or maintained and municipally owned or maintained facilities in the county and state agencies operating in the county as required by this section.

Reviser's note.—Subsection (1) is amended to conform to the redesignation of s. 403.7049(4) as s. 403.7049(5) necessitated by the addition of a new subsection (4) by s. 13, ch. 93-207, Laws of Florida. Paragraph (4)(b) is amended to correct an apparent error and facilitate correct interpretation. The term "waste-to-energy facility" is defined in s. 403.7061(4); the term does not appear in s. 403.7895. The reference to s. 403.7895 was originally cited as "section 57 of this act" by s. 15 of C.S. for H.B. 461, 1993, which became ch. 93-207. Section 57 became s. 403.7895. Section 403.7061 was in s. 57 of the bill as it appeared in a House amendment; a section of that amendment was subsequently deleted without updating the reference to conform.

Section 33. Subsections (3), (4), (5), and (6) of section 403.708, Florida Statutes, are amended to read:

403.708 Prohibition; penalty.—

(3) For purposes of subsections (2), (9), and (10) ~~(2), (3), (10), and (11)~~:

(a) "Degradable," with respect to any material, means that such material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances, after exposure to bacteria, light, or outdoor elements.

(b) "Beverage" means soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drinks; soft drinks, whether or not carbonated; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.

(c) "Beverage container" means an airtight container which at the time of sale contains 1 gallon or less of a beverage, or the metric equivalent of 1 gallon or less, and which is composed of metal, plastic, or glass or a combination thereof.

(4) The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may impose a fine of not more than $100 on any person currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) ~~or subsection (3)~~. If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(5) The Department of Agriculture and Consumer Services may impose a fine of not more than $100 on any person not currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) ~~or subsection (3)~~. If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(6) Fifty percent of each fine collected pursuant to subsections (4) and (5) ~~(5) and (6)~~ shall be deposited into the Solid Waste Management Trust Fund. The balance of fines collected pursuant to subsection (4) ~~(5)~~ shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund for the use of the division for inspection and enforcement of the provisions of this section. The balance of fines collected pursuant to subsection (5) ~~(6)~~ shall be deposited into the General Inspection Trust Fund for the use of the Department of Agriculture and Consumer Services for inspection and enforcement of the provisions of this section.

Reviser's note.—Subsection (3) is amended to conform to the repeal of former s. 403.708(3) by s. 1, ch. 97-23, Laws of Florida, and to conform to the redesignation of subsections (10) and (11) as subsections (9) and (10) necessitated by the repeal of former subsection (3). Subsections (4) and (5) are amended to conform to the repeal of former subsection (3). Subsection (6) is amended to conform to the redesignation of subsections (5) and (6) as subsections (4) and (5), respectively, to conform to the repeal of former subsection (3).

Section 34. Section 403.715, Florida Statutes, is amended to read:

403.715 Certification of resource recovery or recycling equipment.—For purposes of implementing the tax exemption ~~exemptions~~ provided by s.

212.08(7)(p) ~~212.08(5)(e) and (7)(p)~~, the department shall establish a system for the examination and certification of resource recovery or recycling equipment. Application for certification of equipment shall be submitted to the department on forms prescribed by it which include such pertinent information as the department may require. The department may require appropriate certification by a certified public accountant or professional engineer that the equipment for which this exemption is ~~these exemptions are~~ being sought complies with the exemption criterion ~~criteria~~ set forth in s. 212.08(7)(p) ~~212.08(5)(e) and (7)(p)~~. Within 30 days after receipt of an application by the department, a representative of the department may inspect the equipment. Within 30 days after such inspection, the department shall issue a written decision granting or denying certification.

Reviser's note.—Amended to conform to the repeal of former s. 212.08(5)(e) by s. 10, ch. 92-173, Laws of Florida.

Section 35. Subsection (1) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. ~~For the period January 1, 1989, through December 31, 1989, such fee shall be imposed at the rate of 50 cents for each new tire sold.~~ The fee imposed under this section shall be stated separately on the invoice to the purchaser. ~~Beginning January 1, 1990, and thereafter,~~ Such fee shall be imposed at the rate of $1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the month in which the sale occurs. For purposes of this section, a motor vehicle tire sold at retail includes such tires when sold as a component part of a motor vehicle. The terms "sold at retail" and "retail sales" do not include the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to the fee. This fee does not apply to recapped tires. Such fee shall be subject to all applicable taxes imposed in chapter 212.

Reviser's note.—Amended to delete language that has served its purpose.

Section 36. Subsection (5) of section 403.7191, Florida Statutes, is amended to read:

403.7191 Toxics in packaging.—

(5) CERTIFICATE OF COMPLIANCE.—~~As soon as feasible but not later than July 1, 1994,~~ Each manufacturer or distributor of a package or packaging component shall provide, if required, to the purchaser of such package or packaging component, a certificate of compliance stating that the package or packaging component is in compliance with the provisions of this section. If compliance is achieved under any of the exemptions provided in paragraph (4)(b) or paragraph (4)(c), the certificate shall state the specific basis

upon which the exemption is claimed. The certificate of compliance shall be signed by an authorized official of the manufacturing or distributing company. The manufacturer or distributor shall retain the certificate of compliance for as long as the package or packaging component is in use. A copy of the certificate of compliance shall be kept on file by the manufacturer or distributor of the package or packaging component for at least 3 years from the date of the last sale or distribution by the manufacturer or distributor. Certificates of compliance, or copies thereof, shall be furnished within 60 days to the department upon the department's request. If the manufacturer or distributor of the package or packaging component reformulates or creates a new package or packaging component, including a reformulation or creation to meet the maximum levels set forth in subsection (3) ~~paragraph (3)(c)~~, the manufacturer or distributor shall provide an amended or new certificate of compliance for the reformulated or new package or packaging component.

Reviser's note.—Amended to delete language that has served its purpose and to conform to the elimination of paragraph designations from subsection (3) following the repeal of paragraphs (3)(a) and (b) by s. 41, ch. 99-5, Laws of Florida.

Section 37. Subsection (3) of section 403.7199, Florida Statutes, is amended to read:

403.7199 Florida Packaging Council.—

(3) On December 1, 1993, and annually thereafter, the council shall issue a summary to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which summary must contain reports on the aluminum, steel, or other metals, paper, glass, plastic, and plastic-coated paper packaging materials. The summary shall include information for each type of plastic resin identified in s. 403.708(8) ~~403.708(9)~~, and may contain information for subclassifications of other packaging materials. The reports must attempt to provide specific recommendations and proposed legislation to develop a comprehensive package reduction and market development program, and must contain the following information for each type of packaging material:

(a) A comparison of the recovery rate in this state to the national recovery rate, and an explanation of any variance.

(b) A comparison of the recycled content of packaging in this state to the national recycled content of packaging, and an explanation of any variance.

(c) A comparison of the source reduction of packaging manufactured from that material in this state to the source reduction of packages manufactured nationally, and an explanation of any variance.

Reviser's note.—Amended to conform to the redesignation of s. 403.708(9) as s. 403.708(8) necessitated by the repeal of former s. 403.708(3) by s. 1, ch. 97-23, Laws of Florida.

Section 38. Subsection (4) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous substance.—

(4) The department may implement the provisions of chapter 386 ~~and ss. 387.08 and 387.10~~ in its own name whenever a hazardous substance is being generated, transported, disposed of, stored, or treated in violation of those provisions of law.

Reviser's note.—Amended to conform to the repeal of ss. 387.08 and 387.10 by s. 125, ch. 97-237, Laws of Florida.

Section 39. Subsection (1) of section 403.788, Florida Statutes, is amended to read:

403.788 Final disposition of application.—

(1) For the purposes of issuing a final order, the board shall serve as the agency head. Within 45 days after receipt of the administrative law judge's recommended order, the board shall issue a final order as provided by s. 120.57(1)(l) ~~120.57(1)(j)~~, approving the application in whole, approving the application with such modifications or conditions as the board deems appropriate, or denying the issuance of a certification and stating the reasons for issuance or denial.

Reviser's note.—Amended to conform to the redesignation of s. 120.57(1)(j) as s. 120.57(1)(l) by s. 5, ch. 98-200, Laws of Florida.

Section 40. Subsection (4) of section 403.9415, Florida Statutes, is amended to read:

403.9415 Final disposition of application.—

(4) In determining whether an application should be approved in whole, approved with modifications or conditions, or denied, the board shall consider whether, and the extent to which, the location of the natural gas transmission pipeline corridor and the construction and maintenance of the natural gas transmission pipeline will effect a reasonable balance between the need for the natural gas transmission pipeline as a means of providing natural gas energy and the impact upon the public and the environment resulting from the location of the natural gas transmission pipeline corridor and the construction, operation, and maintenance of the natural gas transmission pipeline. In effecting this balance, the board shall consider, based on all relevant, competent and substantial evidence in the record, subject to s. 120.57(1)(l) ~~120.57(1)(j)~~, whether and the extent to which the project will:

(a) Ensure natural gas delivery reliability and integrity;

(b) Meet the natural gas energy needs of the state in an orderly and timely fashion;

(c) Comply with the nonprocedural requirements of agencies;

(d) Adversely affect historical sites and the natural environment;

(e) Adversely affect the health, safety, and welfare of the residents of the affected local government jurisdictions;

(f) Be consistent with applicable local government comprehensive plans and land development regulations; and

(g) Avoid densely populated areas to the maximum extent feasible. If densely populated areas cannot be avoided, locate, to the maximum extent feasible, within existing utility corridors or rights-of-way.

Reviser's note.—Amended to conform to the redesignation of s. 120.57(1)(j) as s. 120.57(1)(l) by s. 5, ch. 98-200, Laws of Florida.

Section 41. Paragraph (c) of subsection (2), paragraph (f) of subsection (3), and subsections (4), (5), and (6) of section 404.056, Florida Statutes, are amended to read:

404.056 Environmental radiation standards and programs; radon protection.—

(2) FLORIDA COORDINATING COUNCIL ON RADON PROTECTION.—

(c) Organization.—The council shall be chaired by the Secretary of Community Affairs or his or her authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chair shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet ~~within 90 days after the effective date of this act for the purpose of organizing, and~~ at least semiannually or more frequently as needed. Members of the council shall not receive compensation for their services, but shall be entitled to reimbursement for necessary travel expenses, pursuant to s. 112.061, from the funds derived from surcharges collected pursuant to s. 553.721 ~~subsection (4)~~. The establishment of the council shall not impede the initiation of building code research and development.

(3) CERTIFICATION.—

(f) The department is authorized to charge and collect nonrefundable fees for the certification and annual recertification of persons who perform radon gas or radon progeny measurements or who perform mitigation of buildings for radon gas or radon progeny. The amount of the initial application fee and certification shall be not less than $200 or more than $900. The amount of the annual recertification fee shall be not less than $200 or more than $900. ~~Effective July 1, 1988,~~ The fee amounts shall be the minimum fee prescribed in this paragraph, and such fee amounts shall remain in effect until the effective date of a fee schedule promulgated by rule by the department. The fees collected shall be deposited in the Radiation Protection Trust Fund and shall be used only to implement the provisions of this section. The surcharge established pursuant to s. 553.721 ~~subsection (3)~~ may be used to supplement the fees established in this paragraph in carrying out the provisions of this subsection.

(4) PUBLIC INFORMATION.—The department shall initiate and administer a program designed to educate and inform the public concerning radon gas and radon progeny, which program shall include, but not be limited to, the origin and health effects of radon, how to measure radon, and construction and mitigation techniques to reduce exposure to radon. The surcharge established pursuant to s. 553.721 ~~subsection (4)~~ may be used to supplement the fees established in paragraph (3)(f) ~~(5)(e)~~ in carrying out the provisions of this subsection.

(5) MANDATORY TESTING.—All public and private school buildings or school sites housing students in kindergarten through grade 12; all state-owned, state-operated, state-regulated, or state-licensed 24-hour care facilities; and all state-licensed day care centers for children or minors which are located in counties designated within the Department of Community Affairs' Florida Radon Protection Map Categories as "Intermediate" or "Elevated Radon Potential" shall be measured to determine the level of indoor radon, using measurement procedures established by the department. Testing shall be completed within the first year of construction in 20 percent of the habitable first floor spaces within any of the regulated buildings. Initial measurements shall be completed and reported to the department by July 1 of the year the building is opened for occupancy. Followup testing must be completed in 5 percent of the habitable first floor spaces within any of the regulated buildings after the building has been occupied for 5 years, and results must be reported to the department by July 1 of the 5th year of occupancy. After radon measurements have been made twice, regulated buildings need not undergo further testing unless significant structural changes occur. Where fill soil is required for the construction of a regulated building, initial testing of fill soil must be performed using measurement procedures established by the department, and the results must be reported to the department prior to construction. ~~The provisions of paragraph (3)(c) as to confidentiality shall not apply to this subsection.~~ No funds collected pursuant to s. 553.721 ~~subsection (4)~~ shall be used to carry out the provisions of this subsection.

(6) NOTIFICATION ON REAL ESTATE DOCUMENTS.—~~By January 1, 1989,~~ Notification shall be provided on at least one document, form, or application executed at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification shall contain the following language:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013(11), provided that such occupancy is 45 days or less in duration.

Reviser's note.—Paragraph (2)(c) and subsections (4) and (5) are amended to conform to the redesignation of subsection (4) of s. 404.056 as

subsection (3) necessitated by the repeal of former subsection (2) by s. 28, ch. 92-173, Laws of Florida, and the subsequent transfer of subsection (3) to s. 553.721 by s. 1, ch. 95-339, Laws of Florida. Paragraph (2)(c) is also amended to delete language that has served its purpose. Paragraph (3)(f) is amended to delete language that has served its purpose and to conform to the transfer of subsection (3) to s. 553.721 by s. 1, ch. 95-339. Subsection (4) is also amended to conform to the redesignation of paragraph (5)(e) as paragraph (3)(f) necessitated by the repeal of former subsection (2) by s. 28, ch. 92-173, the subsequent transfer of former subsection (3) to s. 553.721 by s. 1, ch. 95-339, and the insertion of a new paragraph (3)(e) in s. 404.056 by s. 57, ch. 97-237, Laws of Florida. Subsection (5) is also amended to delete obsolete language referencing confidentiality no longer in the cited provision. Subsection (6) is amended to delete language that has served its purpose.

Section 42. Paragraph (d) of subsection (5) and subsection (9) of section 408.05, Florida Statutes, are amended to read:

408.05 State Center for Health Statistics.—

(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:

(d) ~~The agency shall prepare and furnish a status report on the establishment of the center by April 1, 1993, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include an inventory of health data available in this state, implementation plans and progress made in implementing the functions assigned to the center, and recommendations for further legislation or resources needed to fulfill legislative intent with regard to the center, particularly with regard to establishing a statewide comprehensive health information system.~~ The center shall ~~thereafter~~ be responsible for publishing and disseminating an annual report on the center's activities.

(9) Nothing in this section shall limit, restrict, affect, or control the collection, analysis, release, or publication of data ~~pursuant to the Health Care Cost Containment Act of 1988 or~~ by any state agency pursuant to its statutory authority, duties, or responsibilities.

Reviser's note.—Paragraph (5)(d) is amended to delete an obsolete provision. Subsection (9) is amended to conform to the repeal of statutes constituting the Health Care Cost Containment Act of 1988 by s. 82, ch. 92-33, Laws of Florida.

Section 43. Subsection (9) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(9) The identity of any health care provider, health care facility, or health insurer who submits any data which is proprietary business information to the agency pursuant to the provisions of this section shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, "proprietary business information" shall include, but not be limited to, information relating to specific provider contract reimbursement information; information relating to security measures, systems, or procedures; and information concerning bids or other contractual data, the disclosure of which would impair efforts to contract for goods or services on favorable terms or would injure the affected entity's ability to compete in the marketplace. Notwithstanding the provisions of this subsection, any information obtained or generated pursuant to the provisions of former s. 407.61, either by the former Health Care Cost Containment Board or by the Agency for Health Care Administration upon transfer to that agency of the duties and functions of the former Health Care Cost Containment Board, is not confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such proprietary business information may be used in published analyses and reports or otherwise made available for public disclosure in such manner as to preserve the confidentiality of the identity of the provider. This exemption shall not limit the use of any information used in conjunction with investigation or enforcement purposes under the provisions of s. 455.621.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 407.61 was repealed by s. 19, ch. 98-89, Laws of Florida. The Health Care Cost Containment Board was abolished by ss. 82 and 83, ch. 92-33, Laws of Florida.

Section 44. Subsection (11) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(11) "Clinical laboratory" means a facility licensed under s. 483.091, excluding: any hospital laboratory defined under s. 483.041(6) ~~483.041(5)~~; any clinical laboratory operated by the state or a political subdivision of the state; any blood or tissue bank where the majority of revenues are received from the sale of blood or tissue and where blood, plasma, or tissue is procured from volunteer donors and donated, processed, stored, or distributed on a nonprofit basis; and any clinical laboratory which is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of that same group practice.

Reviser's note.—Amended to conform to the redesignation of s. 483.041(5) as s. 483.041(6) by s. 144, ch. 99-397, Laws of Florida.

Section 45. Subsection (2) of section 408.08, Florida Statutes, is amended to read:

408.08 Inspections and audits; violations; penalties; fines; enforcement.—

(2) Any health care facility that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under s. 408.061; that violates this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide documents or records requested by the agency under this chapter shall be punished by a fine not exceeding $1,000 per day for each day in violation, to be imposed and collected by the agency. Pursuant to rules adopted by the agency, the agency may, upon a showing of good cause, grant a one-time extension of any deadline for a health care facility to timely file a report as required by this section, s. 408.061, ~~s. 408.072,~~ or s. 408.20.

Reviser's note.—Amended to conform to the repeal of s. 408.072 by s. 19, ch. 98-89, Laws of Florida.

Section 46. Paragraph (b) of subsection (5) of section 408.704, Florida Statutes, is amended to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(5) Establishing a data system for accountable health partnerships.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:

1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.654(3)(h) ~~455.654(3)(f)~~.

2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care provid-

ers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.

3. Methods by which the agency should collect, process, analyze, and distribute the data.

4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.

5. Structuring the data collection process to:

a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;

b. Require that carrier customer satisfaction data conclusions are validated by the agency;

c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061; and

d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.

6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.

Reviser's note.—Amended to conform to the redesignation of s. 455.654(3)(f) as s. 455.654(3)(h) by s. 1, ch. 99-356, Laws of Florida.

Section 47. Subsection (2) of section 408.7042, Florida Statutes, is amended to read:

408.7042 Purchasing health care for state employees and Medicaid recipients through community health purchasing alliances.—

(2) When purchasing health care for Medicaid, MedAccess, and Medicaid buy-in recipients through community health purchasing alliances, the agency shall ensure that the claims experiences, rates, and charges for such recipients are not commingled with those of other alliance members. However, the claims experiences, rates, and charges for Medicaid recipients, participants in the MedAccess program, and participants in the Medicaid buy-in program shall not be commingled with those of other alliance members. Prior to providing medical benefits to Medicaid recipients through a community health purchasing alliance, the agency shall seek consultation with the Legislature pursuant to the provisions of s. 216.177(2). The state shall offer to all Medicaid, MedAccess, and Medicaid buy-in recipients the opportunity to select health plans from all accountable health partnerships,

including providers that have a Medicaid managed-care contract or Medi-Pass, that has been approved by the United States Health Care Financing Administration, or from physicians and facilities that participate in Medi-Pass, in the district in which the recipient lives. For purposes of the purchase of health care for such recipients, current Medicaid ~~Medicard~~ providers, including providers participating in the MediPass program and entities with Medicaid managed-care contracts are accountable health partnerships. An entity that provides managed-care for Medicaid recipients pursuant to a contract must obtain a certificate of authority from the agency. Purchase of health care for Medicaid, MedAccess, and Medicaid buy-in recipients by the agency through community health purchasing alliances may not result in a reduction of benefits or any increased costs for such recipients without prior legislative approval.

Reviser's note.—Amended to provide consistent terminology and to conform to the context.

Section 48. Paragraph (j) of subsection (2) of section 408.904, Florida Statutes, is amended to read:

408.904 Benefits.—

(2) Covered health services include:

(j) Outpatient mental health visits and substance abuse treatment. Outpatient mental health visits provided by community mental health centers as provided in chapter 394 and by a mental health therapist licensed under chapter 490 or chapter 491 and substance abuse treatment provided by a center licensed under ~~chapter 396 or~~ chapter 397, up to a total of five visits per calendar year per member.

Reviser's note.—Amended to conform to the repeal of chapter 396 by s. 48, ch. 93-39, Laws of Florida.

Section 49. Paragraph (c) of subsection (3) of section 409.145, Florida Statutes, is amended to read:

409.145 Care of children.—

(3)

(c)1. The department is authorized to provide the services of the children's foster care program to an individual who is enrolled full-time in a postsecondary vocational-technical education program, full-time in a community college program leading toward a vocational degree or an associate degree, or full-time in a university or college, if the following requirements are met:

a. The individual was committed to the legal custody of the department for placement in foster care as a dependent child;

b. The permanency planning goal pursuant to part VII ~~part III~~ of chapter 39 for the individual is long-term foster care or independent living;

c. The individual has been accepted for admittance to a postsecondary vocational-technical education program, to a community college, or to a university or college;

d. All other resources have been thoroughly explored, and it can be clearly established that there are no alternative resources for placement; and

e. A written service agreement which specifies responsibilities and expectations for all parties involved has been signed by a representative of the department, the individual, and the foster parent or licensed child-caring agency providing the placement resources, if the individual is to continue living with the foster parent or placement resource while attending a postsecondary vocational-technical education program, community college, or university or college. An individual who is to be continued in or placed in independent living shall continue to receive services according to the independent living program and agreement of responsibilities signed by the department and the individual.

2. Any provision of this chapter or any other law to the contrary notwithstanding, when an individual who meets the requirements of subparagraph 1. is in attendance at a community college, college, or university, the department may make foster care payments to such community college, college, or university in lieu of payment to the foster parents or individual, for the purpose of room and board, if not otherwise provided, but such payments shall not exceed the amount that would have been paid to the foster parents had the individual remained in the foster home.

3. The services of the foster care program shall continue only for an individual under this paragraph who is a full-time student but shall continue for not more than:

a. Two consecutive years for an individual in a postsecondary vocational-technical education program;

b. Two consecutive years or four semesters for an individual enrolled in a community college unless the individual is participating in college preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing program, in which case such services shall continue for not more than 3 consecutive years or six semesters; or

c. Four consecutive years, 8 semesters, or 12 quarters for an individual enrolled in a college or university unless the individual is participating in college-preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing programs, in which case such services shall continue for not more than 5 consecutive years, 10 semesters, or 15 quarters.

4.a. As a condition for continued foster care services, an individual shall have earned a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall grade point average of 2.0 for only the previous term, and be eligible for continued enrollment in the

institution. If the postsecondary vocational-technical school program does not operate on a grade point average as described above, then the individual shall maintain a standing equivalent to the 2.0 grade point average.

b. Services shall be terminated upon completion of, graduation from, or withdrawal or permanent expulsion from a postsecondary vocational-technical education program, community college, or university or college. Services shall also be terminated for failure to maintain the required level of academic achievement.

Reviser's note.—Amended to conform to the redesignation of parts of chapter 39 necessitated by the repeal or transfer of sections by ch. 98-403, Laws of Florida. Provisions relating to case planning are in part VII.

Section 50. Paragraph (c) of subsection (4) of section 409.166, Florida Statutes, is amended to read:

409.166 Special needs children; subsidized adoption program.—

(4) ELIGIBILITY FOR SERVICES.—

(c) A child who is handicapped at the time of adoption shall be eligible for services of the Division of Children's Medical Services Network if the child was eligible for such services prior to the adoption.

Reviser's note.—Amended to conform to the reorganization of divisions of the Department of Health by ch. 99-397, Laws of Florida.

Section 51. Section 409.1685, Florida Statutes, is amended to read:

409.1685 Children in foster care; annual report to Legislature.—The Department of Children and Family Services shall submit a written report to the substantive committees of the Legislature concerning the status of children in foster care and concerning the judicial review mandated by part VIII ~~III~~ of chapter 39. This report shall be submitted by March 1 of each year and shall include the following information for the prior calendar year:

(1) The number of 6-month and annual judicial reviews completed during that period.

(2) The number of children in foster care returned to a parent, guardian, or relative as a result of a 6-month or annual judicial review hearing during that period.

(3) The number of termination of parental rights proceedings instituted during that period which shall include:

(a) The number of termination of parental rights proceedings initiated pursuant to s. 39.703 ~~part III of chapter 39~~; and

(b) The total number of terminations of parental rights ordered.

(4) The number of foster care children placed for adoption during that period.

Reviser's note.—Amended to conform to the repeal or transfer of sections of chapter 39 by ch. 98-403, Laws of Florida. Provisions relating to judicial review are located in part VIII of chapter 39, and provisions relating to initiation of termination of parental rights are located at s. 39.703.

Section 52. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2) ~~402.305(1)~~, and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Reviser's note.—Amended to conform to the redesignation of s. 402.305(1) as s. 402.305(2) by s. 2, ch. 91-300, Laws of Florida.

Section 53. Section 409.2355, Florida Statutes, is amended to read:

409.2355 Programs for prosecution of males over age 21 who commit certain offenses involving girls under age 16.—Subject to specific appropriated funds, the Department of Children and Family Services is directed to establish a program by which local communities, through the state attorney's office of each judicial circuit, may apply for grants to fund innovative programs for the prosecution of males over the age of 21 who victimize girls under the age of 16 in violation of s. 794.011, s. 794.05, s. 800.04, or s. 827.04(3) ~~827.04(4)~~.

Reviser's note.—Amended to conform to the redesignation of s. 827.04(4), as enacted by s. 2, ch. 96-215, Laws of Florida, as s. 827.04(3) necessitated by the repeal and redesignation of subunits by s. 10, ch. 96-322, Laws of Florida.

Section 54. Paragraph (b) of subsection (8) and subsection (11) of section 409.2564, Florida Statutes, are amended to read:

409.2564 Actions for support.—

(8) The director of the Title IV-D agency, or the director's designee, is authorized to subpoena from any person financial and other information necessary to establish, modify, or enforce a child support order.

(b) Subpoenas issued by this or any other state's Title IV-D agency may be challenged in accordance with s. 120.569(2)(k)1. While a subpoena is being challenged, the Title IV-D agency may not impose a fine as provided for under paragraph (c) until the challenge is complete and the subpoena has been found to be valid.

(11) For the purposes of denial, revocation, or limitation of an individual's United States Passport, consistent with 42 U.S.C. s. 652(k)(1) ~~42 U.S.C. s. 452(1)(k)~~, the Title IV-D agency shall have procedures to certify to the Secretary of the United States Department of Health and Human Services, in the format and accompanied by such supporting documentation as the secretary may require, a determination that an individual owes arrearages of child support in an amount exceeding $5,000. Said procedures shall provide that the individual be given notice of the determination and of the consequence thereof and that the individual shall be given an opportunity to contest the accuracy of the determination.

Reviser's note.—Paragraph (8)(b) is amended to correct a grammatical error. Subsection (11) is amended to improve clarity and facilitate correct interpretation. Section 652(k)(1) references the procedures whereby the Secretary of Health and Human Services certifies child support arrearage information to the Secretary of State to be considered for purposes of passport denial, revocation, or limitation.

Section 55. Subsection (12) of section 409.2673, Florida Statutes, is amended to read:

409.2673 Shared county and state health care program for low-income persons; trust fund.—

(12) There is created the Shared County and State Program Trust Fund in the Treasury to be used by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ for the purpose of funding the state's portion of the shared county and state program created pursuant to this section.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 98-224, Laws of Florida, to make specific changes in terminology and any further changes as necessary to conform the Florida Statutes to the organizational changes of the former Department of Health and Rehabilitative Services effected by previous acts of the Legislature.

Section 56. Section 409.821, Florida Statutes, is amended to read:

409.821 Sections 409.810-409.820; confidential information.—Notwithstanding any other law to the contrary, any information contained in an application for determination of eligibility for the Florida Kidcare ~~Kids Health~~ program which identifies applicants, including medical information and family financial information, and any information obtained through quality assurance activities and patient satisfaction surveys which identifies program participants, obtained by the Florida Kidcare ~~Kids Health~~ program under ss. 409.810-409.820, is confidential and is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Except as otherwise provided by law, program staff or staff or agents affiliated with the program may not release, without the written consent of the applicant or the parent or guardian of the applicant, to any state or federal agency, to any private business or person, or to any other entity, any confidential information received under ss. 409.810-409.820. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and

shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the creation of ss. 409.810-409.820, constituting the Florida Kidcare program, by ss. 32-47, ch. 98-288, Laws of Florida.

Section 57. Paragraph (b) of subsection (5) and subsection (8) of section 409.905, Florida Statutes, are amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(b) A licensed hospital maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in the hospital inpatient portion of the Medicaid program except as provided in federal law. However, the department shall apply for a waiver, within 9 months after June 5, 1991, designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in Hillsborough County, Highlands County, Hardee County, Manatee County, and Polk County. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the department to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers. ~~The department is directed to monitor and evaluate the implementation of this waiver program if it is granted and~~

~~report to the chairs of the appropriations committees of the Senate and the House of Representatives by February 1, 1992.~~

(8) NURSING FACILITY SERVICES.—The agency shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined by s. 395.002(11) ~~395.002(9)~~, that is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the agency must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available.

Reviser's note.—Paragraph (5)(b) is amended to delete language that has had its effect. Subsection (8) is amended to conform to the redesignation of s. 395.002(9) as s. 395.002(11) by the reviser incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 58. Subsection (17) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(17) A recipient or his or her legal representative or any person representing, or acting as agent for, a recipient or the recipient's legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(c) ~~(6)(d)~~, or who has actual knowledge of the agency's rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the agency, within 60 days after receipt of settlement proceeds, the full amount of the third-party benefits, but not in excess of the total medical assistance provided by Medicaid, or to place the full amount of the third-party benefits in a trust account for the benefit of the agency pending judicial or administrative determination of the agency's right thereto. Proof that any such person had notice or knowledge that the recipient had received medical assistance from Medicaid, and that third-party benefits or proceeds therefrom were in any way related to a covered illness or injury for which Medicaid had provided medical assistance, and that any such person knowingly obtained possession or control of, or used, third-party benefits or proceeds and failed either to pay the agency the full amount required by this section or to hold the full amount of third-party benefits or proceeds in trust pending judicial or administrative determination, unless adequately explained, gives rise to an inference that such person knowingly failed to credit the state or its agent for payments received from social security, insurance, or other sources, pursuant to s. 414.39(4)(b), and acted with the intent set forth in s. 812.014(1).

(a) In cases of suspected criminal violations or fraudulent activity, the agency may take any civil action permitted at law or equity to recover the

greatest possible amount, including, without limitation, treble damages under ss. 772.11 and 812.035(7).

(b) The agency is authorized to investigate and to request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 414.39 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Attorney General, or to any state attorney. Pursuant to s. 409.913, the Attorney General has primary responsibility to investigate and control Medicaid fraud.

(c) In carrying out duties and responsibilities related to Medicaid fraud control, the agency may subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(d) All information obtained and documents prepared pursuant to an investigation of a Medicaid recipient, the recipient's legal representative, or any other person relating to an allegation of recipient fraud or theft is confidential and exempt from s. 119.07(1):

1. Until such time as the agency takes final agency action;

2. Until such time as the Department of Legal Affairs refers the case for criminal prosecution;

3. Until such time as an indictment or criminal information is filed by a state attorney in a criminal case; or

4. At all times if otherwise protected by law.

Reviser's note.—Amended to conform to the redesignation of s. 409.910(6)(d) as s. 409.910(6)(c) by s. 1, ch. 98-411, Laws of Florida.

Section 59. Section 409.9116, Florida Statutes, is amended to read:

409.9116 Disproportionate share/financial assistance program for rural hospitals.—In addition to the payments made under s. 409.911, the Agency for Health Care Administration shall administer a federally matched disproportionate share program and a state-funded financial assistance program for statutory rural hospitals. The agency shall make disproportionate share payments to statutory rural hospitals that qualify for such payments and financial assistance payments to statutory rural hospitals that do not qualify for disproportionate share payments. The disproportionate share program payments shall be limited by and conform with federal requirements. ~~In fiscal year 1993-1994, available funds shall be distributed in one payment, as soon as practicable after the effective date of this act. In subsequent fiscal years,~~ Funds shall be distributed quarterly in each fiscal year for which an appropriation is made. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) The following formula shall be used by the agency to calculate the total amount earned for hospitals that participate in the rural hospital disproportionate share program or the financial assistance program:

TAERH = (CCD + MDD)/TPD

Where:

CCD = total charity care-other, plus charity care-Hill Burton, minus 50 percent of unrestricted tax revenue from local governments, and restricted funds for indigent care, divided by gross revenue per adjusted patient day; however, if CCD is less than zero, then zero shall be used for CCD.

MDD = Medicaid inpatient days plus Medicaid HMO inpatient days.

TPD = total inpatient days.

TAERH = total amount earned by each rural hospital.

In computing the total amount earned by each rural hospital, the agency must use the most recent actual data reported in accordance with s. 408.061(4)(a).

(2) In determining the payment amount for each rural hospital under this section, the agency shall first allocate all available state funds by the following formula:

DAER = (TAERH x TARH)/STAERH

Where:

DAER = distribution amount for each rural hospital.

STAERH = sum of total amount earned by each rural hospital.

TAERH = total amount earned by each rural hospital.

TARH = total amount appropriated or distributed under this section.

Federal matching funds for the disproportionate share program shall then be calculated for those hospitals that qualify for disproportionate share payments under this section.

(3) The Agency for Health Care Administration may recommend to the Legislature a formula to be used in subsequent fiscal years to distribute funds appropriated for this section that includes charity care, uncompensated care to medically indigent patients, and Medicaid inpatient days.

(4) In the event that federal matching funds for the rural hospital disproportionate share program are not available, state matching funds appropriated for the program may be utilized for the Rural Hospital Financial Assistance Program and shall be allocated to rural hospitals based on the formulas in subsections (1) and (2).

(5) In order to receive payments under this section, a hospital must be a rural hospital as defined in s. 395.602 and must meet the following additional requirements:

(a) Agree to conform to all agency requirements to ensure high quality in the provision of services, including criteria adopted by agency rule con-

cerning staffing ratios, medical records, standards of care, equipment, space, and such other standards and criteria as the agency deems appropriate as specified by rule.

(b) Agree to accept all patients, regardless of ability to pay, on a functional space-available basis.

(c) Agree to provide backup and referral services to the county public health departments and other low-income providers within the hospital's service area, including the development of written agreements between these organizations and the hospital.

(d) For any hospital owned by a county government which is leased to a management company, agree to submit on a quarterly basis a report to the agency, in a format specified by the agency, which provides a specific accounting of how all funds dispersed under this act are spent.

(6) For the 1999-2000 fiscal year only, the Agency for Health Care Administration shall use the following formula for distribution of the funds in Specific Appropriation 236 of the 1999-2000 General Appropriations Act for the disproportionate share/financial assistance program for rural hospitals.

(a) The agency shall first determine a preliminary payment amount for each rural hospital by allocating all available state funds using the following formula:

PDAER = (TAERH x TARH)/STAERH

Where:

PDAER = preliminary distribution amount for each rural hospital.

TAERH = total amount earned by each rural hospital.

TARH = total amount appropriated or distributed under this section.

STAERH = sum of total amount earned by each rural hospital.

(b) Federal matching funds for the disproportionate share program shall then be calculated for those hospitals that qualify for disproportionate share in paragraph (a).

(c) The state-funds-only payment amount is then calculated for each hospital using the formula:

SFOER = Maximum value of (1) SFOL - PDAER or (2) 0

Where:

SFOER = state-funds-only payment amount for each rural hospital.

SFOL = state-funds-only payment level, which is set at 4 percent of TARH.

(d) The adjusted total amount allocated to the rural disproportionate share program shall then be calculated using the following formula:

ATARH = (TARH - SSFOER)

Where:

ATARH = adjusted total amount appropriated or distributed under this section.

SSFOER = sum of the state-funds-only payment amount calculated under paragraph (c) for all rural hospitals.

(e) The determination of the amount of rural disproportionate share hospital funds is calculated by the following formula:

TDAERH = [(TAERH x ATARH)/STAERH]

Where:

TDAERH = total distribution amount for each rural hospital.

(f) Federal matching funds for the disproportionate share program shall then be calculated for those hospitals that qualify for disproportionate share in paragraph (e).

(g) State-funds-only payment amounts calculated under paragraph (c) are then added to the results of paragraph (f) to determine the total distribution amount for each rural hospital.

(h) This subsection is repealed on July 1, 2000.

(7) This section only applies to hospitals that were defined as statutory rural hospitals, or their successor-in-interest hospital, prior to July 1, 1998. Any additional hospital that is defined as a statutory rural hospital, or its successor-in-interest hospital, on or after July 1, 1998, is not eligible for programs under this section unless additional funds are appropriated each fiscal year specifically to the rural hospital disproportionate share and financial assistance programs in an amount necessary to prevent any hospital, or its successor-in-interest hospital, eligible for the programs prior to July 1, 1998, from incurring a reduction in payments because of the eligibility of an additional hospital to participate in the programs.

Reviser's note.—Amended to delete language that has served its purpose.

Section 60. Subsection (26) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custo-

dial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(26) ~~Beginning July 1, 1996,~~ The agency shall perform choice counseling, enrollments, and disenrollments for Medicaid recipients who are eligible for MediPass or managed care plans. Notwithstanding the prohibition contained in paragraph (18)(f), managed care plans may perform preenrollments of Medicaid recipients under the supervision of the agency or its agents. For the purposes of this section, "preenrollment" means the provision of marketing and educational materials to a Medicaid recipient and assistance in completing the application forms, but shall not include actual enrollment into a managed care plan. An application for enrollment shall not be deemed complete until the agency or its agent verifies that the recipient made an informed, voluntary choice. The agency, in cooperation with the Department of Children and Family Services, may test new marketing initiatives to inform Medicaid recipients about their managed care options at selected sites. The agency shall report to the Legislature on the effectiveness of such initiatives. The agency may contract with a third party to perform managed care plan and MediPass choice-counseling, enrollment, and disenrollment services for Medicaid recipients and is authorized to adopt rules to implement such services. ~~Until October 1, 1996, or the receipt of necessary federal waivers, whichever is earlier, the agency shall adjust the capitation rate to cover any implementation, staff, or other costs associated with enrollment, disenrollment, and choice-counseling activities. Thereafter,~~ The agency may adjust the capitation rate only to cover the costs of a third-party choice-counseling, enrollment, and disenrollment contract, and for agency supervision and management of the managed care plan choice-counseling, enrollment, and disenrollment contract.

Reviser's note.—Amended to delete language that has served its purpose.

Section 61. Paragraph (d) of subsection (15) of section 409.913, Florida Statutes, is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate.

(15) The agency may impose any of the following sanctions on a provider or a person for any of the acts described in subsection (14):

(d) Immediate suspension, if the agency has received information of patient abuse or neglect or of any act prohibited by s. 409.920. Upon suspension, the agency must issue an immediate final order under s. 120.569(2)(n) ~~120.59(3)~~.

Reviser's note.—Amended to conform to the repeal of s. 120.59(3) by s. 24, ch. 96-159, Laws of Florida, and the enactment of identical language in s. 120.569(2)(l) by s. 18, ch. 96-159. Section 120.569(2)(l) was subsequently redesignated as s. 120.569(2)(n) by s. 4, ch. 98-200, Laws of Florida.

Section 62. Paragraph (k) of subsection (9) of section 411.202, Florida Statutes, is amended to read:

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

(9) "High-risk child" or "at-risk child" means a preschool child with one or more of the following characteristics:

(k) The child is a handicapped child as defined in subsection (8) ~~(7)~~.

Reviser's note.—Amended to conform to the redesignation of s. 411.202(7) as s. 411.202(8) by s. 1, ch. 95-321, Laws of Florida.

Section 63. Paragraph (a) of subsection (4) of section 411.242, Florida Statutes, is amended to read:

411.242 Florida Education Now and Babies Later (ENABL) program.—

(4) IMPLEMENTATION.—The department must:

(a) Implement the ENABL program using the criteria provided in this section. The department must evaluate, select, and monitor the two pilot projects to be funded initially. ~~The initial contract awards must be made no later than August 1, 1995.~~ The following community-based local contractors may be selected among the first sites to be funded:

1. A program based in a local school district, a county health department, or another unit of local government.

2. A program based in a local, public or private, not-for-profit provider of services to children and their families.

Reviser's note.—Amended to delete language that has served its purpose.

Section 64. Section 413.46, Florida Statutes, is amended to read:

413.46 Legislative intent.—It is the intent of the Legislature to ensure the referral of persons who have moderate-to-severe brain or spinal cord injuries to a coordinated rehabilitation program developed and administered by the division. The program shall provide eligible persons, as defined in s. 381.76 ~~413.507~~, the opportunity to obtain the necessary rehabilitative services enabling them to be referred to a vocational rehabilitation program or to return to an appropriate level of functioning in their community. Further, it is intended that permanent disability be avoided, whenever possible, through prevention, early identification, skilled emergency evacuation procedures, and proper medical and rehabilitative treatment.

Reviser's note.—Amended to conform to the redesignation of s. 413.507 as s. 381.76 by s. 20, ch. 99-240, Laws of Florida.

Section 65. Paragraph (a) of subsection (3) and paragraph (c) of subsection (7) of section 414.065, Florida Statutes, are amended to read:

414.065 Work requirements.—

(3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.—The following individuals are exempt from work activity requirements:

(a) A minor child under age 16, except that a child exempted from this provision shall be subject to the requirements of paragraph (1)(j) ~~(1)(i)~~ and s. 414.125.

(7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—Unless otherwise provided, the situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(c) Noncompliance related to treatment or remediation of past effects of domestic violence.—An individual who is determined to be unable to comply with the work requirements under this section due to mental or physical impairment related to past incidents of domestic violence may be exempt from work requirements for a specified period pursuant to s. 414.028(4)(g), except that such individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (4). The plan must include counseling or a course of treatment necessary for the individual to resume participation. The need for treatment and the expected duration of such treatment must be verified by a physician licensed under chapter 458 or chapter 459; a psychologist licensed under s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida; a therapist as defined in s. 491.003(2) or (6); or a treatment professional who is registered under s. 39.905(1)(g) ~~415.605(1)(g)~~, is authorized to maintain confidentiality under s. 90.5036(1)(d), and has a minimum of 2 years experience at a certified domestic violence center. An exception granted under this paragraph does not constitute an exception from the time limitations on benefits specified under s. 414.105.

Reviser's note.—Paragraph (3)(a) is amended to conform to the redesignation of s. 414.065(1)(i) as s. 414.065(1)(j) by s. 42, ch. 97-246, Laws of Florida. Paragraph (7)(c) is amended to conform to the redesignation of s. 415.605(1)(g) as s. 39.905(1)(g) by s. 117, ch. 98-403, Laws of Florida.

Section 66. Subsection (1) of section 414.28, Florida Statutes, is amended to read:

414.28 Public assistance payments to constitute debt of recipient.—

(1) CLAIMS.—The acceptance of public assistance creates a debt of the person accepting assistance, which debt is enforceable only after the death of the recipient. The debt thereby created is enforceable only by claim filed against the estate of the recipient after his or her death or by suit to set aside a fraudulent conveyance, as defined in subsection (3). After the death of the recipient and within the time prescribed by law, the department may file a

claim against the estate of the recipient for the total amount of public assistance paid to or for the benefit of such recipient, reimbursement for which has not been made. Claims so filed shall take priority as class 3 claims as provided by s. 733.707(1)(c) ~~733.707(1)(g)~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Class 3 claims are provided for in s. 733.707(1)(c).

Section 67. Subsection (9) of section 414.39, Florida Statutes, is amended to read:

414.39 Fraud.—

(9) All records relating to investigations of public assistance fraud in the custody of the department and the Agency for Health Care Administration are available for examination by the Department of Law Enforcement pursuant to s. 943.401 ~~11.50~~ and are admissible into evidence in proceedings brought under this section as business records within the meaning of s. 90.803(6).

Reviser's note.—Amended to conform to the redesignation of s. 11.50 as s. 943.401 by s. 5, ch. 99-333, Laws of Florida.

Section 68. Subsection (4) of section 415.102, Florida Statutes, is amended to read:

415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:

(4) "Caregiver" means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. "Caregiver" includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (15) ~~(13)~~. For the purpose of departmental investigative jurisdiction, the term "caregiver" does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in an official capacity.

Reviser's note.—Amended to conform to the redesignation of s. 415.102(13) as s. 415.102(15) by s. 1, ch. 98-182, Laws of Florida.

Section 69. Paragraph (f) of subsection (1) of section 415.1055, Florida Statutes, is amended to read:

415.1055 Notification to administrative entities, subjects, and reporters; notification to law enforcement and state attorneys.—

(1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.—

(f) If at any time during a protective investigation the department has reasonable cause to believe that an employee of a facility, as defined in s.

415.102(15) ~~415.102(13)~~, is the alleged perpetrator of abuse, neglect, or exploitation of a disabled adult or an elderly person, the department shall notify the Agency for Health Care Administration, Division of Health Quality Assurance, in writing.

Reviser's note.—Amended to conform to the redesignation of s. 415.102(13) as s. 415.102(15) by s. 1, ch. 98-182, Laws of Florida.

Section 70. Subsection (8) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(8) The department, upon receipt of the applicable fee, shall search its central abuse registry and tracking system records pursuant to the requirements of ss. 110.1127, 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512, 402.305(2) ~~402.305(1)~~, 402.3055, 402.313, 409.175, 409.176, and 985.407 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The department shall report the existence of any confirmed report and advise the authorized licensing agency, applicant for licensure, or other authorized agency or person of the results of the search and the date of the report. Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.

Reviser's note.—Amended to conform to the redesignation of s. 402.305(1) as s. 402.305(2) by s. 2, ch. 91-300, Laws of Florida.

Section 71. Section 415.1102, Florida Statutes, is reenacted to read:

415.1102 Adult protection teams; services; eligible cases.—Subject to an appropriation, the department may develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of the districts of the department. Such teams may be composed of, but need not be limited to, representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies.

(1) The department shall utilize and convene the teams to supplement the protective services activities of the adult protective services program of the department. This section does not prevent a person from reporting under s. 415.1034 all suspected or known cases of abuse, neglect, or exploitation of a disabled adult or an elderly person. The role of the teams is to support activities of the adult protective services program and to provide services deemed by the teams to be necessary and appropriate to abused, neglected, and exploited disabled adults or elderly persons upon referral. Services must be provided with the consent of the disabled adult, or elderly person or that person's guardian, or through court order. The specialized diagnostic assessment, evaluation, coordination, and other supportive services that an adult protection team must be capable of providing include, but are not limited to:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, neglect, or exploitation as defined by department policy or rule.

(d) Psychological and psychiatric diagnosis and evaluation services for the disabled adult or elderly person.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for disabled adults and elderly persons whose cases have been referred to the team. An adult protection team may provide consultation with respect to a disabled adult or elderly person who has not been referred to the team. The consultation must be provided at the request of a representative of the adult protective services program or at the request of any other professional involved with the disabled adult or elderly person or that person's guardian or other caregivers. In every such adult protection team case staffing consultation or staff activity involving a disabled adult or elderly person, an adult protective services program representative shall attend and participate.

(h) Service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling adult abuse, neglect, or exploitation cases.

(j) Education and community awareness campaigns on adult abuse, neglect, or exploitation in an effort to enable citizens to prevent, identify, and treat adult abuse, neglect, and exploitation in the community more successfully.

(2) The adult abuse, neglect, or exploitation cases that are appropriate for referral by the adult protective services program to adult protection teams for supportive services include, but are not limited to, cases involving:

(a) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a disabled adult or an elderly person.

(b) Sexual abuse or molestation, or sexual exploitation, of a disabled adult or elderly person.

(c) Reported medical, physical, or emotional neglect of a disabled adult or an elderly person.

(d) Reported financial exploitation of a disabled adult or elderly person.

In all instances in which an adult protection team is providing certain services to abused, neglected, or exploited disabled adults or elderly persons, other offices and units of the department shall avoid duplicating the provisions of those services.

Reviser's note.—Section 6, ch. 98-182, Laws of Florida, purported to amend paragraph (2)(c), but failed to republish the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal the flush left language, s. 415.1102 is reenacted to confirm that the omission was not intended.

Section 72. Subsections (1), (3), and (4) of section 420.0004, Florida Statutes, are amended to read:

420.0004 Definitions.—As used in this part, unless the context otherwise indicates:

(1) "Adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility determined as provided in subsection (9) ~~(6)~~, subsection (10) ~~(7)~~, or subsection (14) ~~(11)~~, based upon a formula as established by the United States Department of Housing and Urban Development.

(3) "Affordable" means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (9) ~~(6)~~, subsection (10) ~~(7)~~, or subsection (14) ~~(11)~~.

(4) "Corporation" ~~"Agency"~~ means the Florida Housing Finance Corporation ~~Agency~~.

Reviser's note.—Subsections (1) and (3) are amended to conform to the redesignation of subsection (6), subsection (7), and subsection (11) as subsection (9), subsection (10), and subsection (14), respectively, by s. 13, ch. 90-275, Laws of Florida. Subsection (4) is amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 73. Subsections (5), (11), and (13) of section 420.102, Florida Statutes, are amended to read:

420.102 Definitions.—As used in this part, the following words and terms have the following meanings unless the context indicates another or different meaning or intent:

(5) "Development costs" means the costs which have been approved by the Florida Housing Finance Corporation ~~agency~~ as appropriate expenditures, including but not limited to:

(a) Legal, organizational, marketing, and administrative expenses;

(b) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(c) Expenses for surveys as to need and market analyses;

(d) Necessary application and other fees to federal and other government agencies; and

(e) Such other expenses as the Florida Housing Finance Corporation ~~agency~~ may deem appropriate to effectuate the purposes of this chapter.

(11) "Low-income or moderate-income persons" means families and persons who cannot afford, as defined by federal law, to pay the amounts at which private enterprise is providing a substantial supply of decent, safe, and sanitary housing and fall within income limitations set by the Florida Housing Finance Corporation ~~agency~~ in its rules.

(13) "Project" means a specific work or improvement, including land, buildings, improvements, real and personal property, or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated, or improved with the financial assistance of the Florida Housing Finance Corporation ~~agency~~, including the construction of low-income and moderate-income housing facilities and facilities incident or appurtenant thereto, such as streets, sewers, utilities, parks, site preparation, landscaping, and such other administrative, community, and recreational facilities as the Florida Housing Finance Corporation ~~agency~~ determines to be necessary, convenient, or desirable appurtenances.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 74. Section 420.37, Florida Statutes, is amended to read:

420.37 Additional powers of the Florida Housing Finance Corporation ~~agency~~.—The Florida Housing Finance Corporation ~~agency~~ shall have all powers necessary or convenient to carry out and effectuate the purposes of this part, including the power to provide for the collection and payment of fees and charges, regardless of method of payment, including, but not limited to, reimbursement of costs of financing by the corporation ~~agency~~, credit underwriting fees, servicing charges, and insurance premiums determined by the corporation ~~agency~~ to be reasonable and as approved by the corporation ~~agency~~. The fees and charges may be paid directly by the borrower to the insurer, lender, or servicing agent or may be deducted from the payments collected by such insurer, lender, or servicing agent.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 75. Subsection (30) of section 420.507, Florida Statutes, is amended to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(30) To prepare and submit to the secretary of the department a budget request for purposes of the corporation, which request shall, notwithstanding the provisions of chapter 216 and in accordance with s. 216.351, contain a request for operational expenditures and separate requests for other authorized corporation programs. The request shall not be required to contain information on the number of employees, salaries, or any classification thereof, and the approved operating budget therefor need not comply with s. 216.181(8)-(10) ~~216.181(7)-(9)~~. The secretary is authorized to include within the department's budget request the corporation's budget request in the form as authorized by this section.

Reviser's note.—Amended to conform to the redesignation of s. 216.181(7)-(9) as s. 216.181(8)-(10) by s. 6, ch. 97-286, Laws of Florida.

Section 76. Paragraph (a) of subsection (3) and subsection (5) of section 420.508, Florida Statutes, are amended to read:

420.508 Special powers; multifamily and single-family projects.—The corporation shall have the special power to:

(3)(a) Make and participate in the making of, and contract to make or participate in the making of, mortgage loans for permanent or construction financing to sponsors for the purposes of financing development costs of projects, provided each mortgage loan for a project made by the corporation shall:

1. Be evidenced by a properly executed note or other evidence of indebtedness and be secured by a properly recorded mortgage;

2. Provide for amortization to pay the mortgage loan in full not later than the expiration of the useful life of the property financed with the proceeds of the mortgage loan as determined by the corporation, and in any event not later than 45 years from the date of the mortgage loan;

3. Not exceed such percentage of the development costs as the corporation may determine pursuant to rule and, in any event, not more than 95 percent of the development costs;

4. If the mortgage loan is to provide financing for the construction of a project, have each advance thereof secured, insured, or guaranteed in such manner as the corporation determines will reasonably protect its interests and those of the bondholders;

5. Have the initial review, approval, and origination process accomplished by a lending institution in accordance with such procedure as the corporation may prescribe, which lending institution shall be paid such fees and charges for its services as the corporation may determine; and

6. Be serviced by such lending institution or other private entity engaged in the business of servicing mortgage loans in the state as the corporation shall approve in accordance with such procedures as the corporation may prescribe, which servicer shall be paid such fees and charges for its services as the corporation ~~agency~~ may determine.

(5) Establish with a qualified depository meeting the requirements of chapter 280, a separate fund to be known as the "Florida Housing Finance Corporation Fund," to be administered by the corporation in accordance with the purposes of this chapter. All fees collected by the corporation directly from the Federal Government for administration of the United States Department of Housing and Urban Development Section 8 housing program, all annual administrative fees collected by trustees for bond programs and remitted to the corporation, all expense fees related to costs of bond issuance collected by trustees and remitted to the corporation, and all tax credit program fees must be deposited into the fund. The fund shall be utilized for the purposes of the corporation, including payment of administrative expenses. ~~Effective January 1, 1998, all amounts held in the Housing Finance Agency Trust Fund established pursuant to state law must be transferred to the corporation for deposit in the Florida Housing Finance Corporation Fund, whereupon the Housing Finance Agency Trust Fund must be closed.~~ Expenditures from the Florida Housing Finance Corporation Fund shall not be required to be included in the corporation's budget request or be subject to appropriation by the Legislature.

Reviser's note.—Paragraph (3)(a) is amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida. Subsection (5) is amended to delete language that has served its purpose.

Section 77. Subsection (5) of section 420.524, Florida Statutes, is amended to read:

420.524 Definitions.—For the purpose of ss. 420.521-420.529, the term:

(5) "Student" means any person not living with that person's parent or guardian who is eligible to be claimed by that person's parent or guardian as a dependent under the federal income tax code and who is enrolled on at least a half-time basis in a secondary school, vocational-technical center, community college, college, or university. The term does not include a person participating in an educational or training program approved by the corporation ~~agency~~.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 78. Paragraph (c) of subsection (2) of section 420.525, Florida Statutes, is amended to read:

420.525 Housing Predevelopment Fund.—

(2) All unencumbered funds, loan repayments, proceeds from the sale of any property, existing funds remaining in the following programs, and any

other proceeds that would otherwise accrue pursuant to the activities conducted under this program and the provisions of the following programs shall be deposited in the fund and shall not revert to the General Revenue Fund:

(c) The Community-Based Organization Loan Program created by the Affordable Housing Planning and Community Assistance Act ~~Florida Affordable Housing Act of 1986~~.

Reviser's note.—Amended to conform to the redesignation of the Florida Affordable Housing Act of 1986 as the Affordable Housing Planning and Community Assistance Act by s. 27, ch. 92-317, Laws of Florida.

Section 79. Subsection (1) of section 420.602, Florida Statutes, is amended to read:

420.602 Definitions.—As used in this part, the following terms shall have the following meanings, unless the context otherwise requires:

(1) "Adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility level determined as provided in subsection (8), subsection (9), or subsection (12), based upon a formula as established by rule of the corporation ~~agency~~.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 80. Subsection (3) of section 420.609, Florida Statutes, is amended to read:

420.609 Affordable Housing Study Commission.—Because the Legislature firmly supports affordable housing in Florida for all economic classes:

(3) The department and the corporation ~~agency~~ shall supply such information, assistance, and facilities as are deemed necessary for the commission to carry out its duties under this section and shall provide such staff assistance as is necessary for the performance of required clerical and administrative functions of the commission.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 81. Paragraph (a) of subsection (2) of section 420.9072, Florida Statutes, is amended to read:

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government

comprehensive plan specific to affordable housing, and to increase housing-related employment.

(2)(a) To be eligible to receive funds under the program, a county or eligible municipality must:

1. Submit to the corporation its local housing assistance plan describing the local housing assistance strategies established pursuant to s. 420.9075;

2. Within 12 months after adopting the local housing assistance plan, amend the plan to incorporate the local housing incentive strategies defined in s. 420.9071(16) and described in s. 420.9076 ~~420.7096~~; and

3. Within 24 months after adopting the amended local housing assistance plan to incorporate the local housing incentive strategies, amend its land development regulations or establish local policies and procedures, as necessary, to implement the local housing incentive strategies adopted by the local governing body. A county or an eligible municipality that has adopted a housing incentive strategy pursuant to s. 420.9076 before the effective date of this act shall review the status of implementation of the plan according to its adopted schedule for implementation and report its findings in the annual report required by s. 420.9075(9). If as a result of the review, a county or an eligible municipality determines that the implementation is complete and in accordance with its schedule, no further action is necessary. If a county or an eligible municipality determines that implementation according to its schedule is not complete, it must amend its land development regulations or establish local policies and procedures, as necessary, to implement the housing incentive plan within 12 months after the effective date of this act, or if extenuating circumstances prevent implementation within 12 months, pursuant to s. 420.9075(12), enter into an extension agreement with the corporation.

Reviser's note.—Amended to correct an apparent error. Section 420.7096 does not exist. Section 420.9076 relates to affordable housing incentive strategies.

Section 82. Subsections (1) and (2) of section 420.9073, Florida Statutes, are amended to read:

420.9073 Local housing distributions.—

(1) Distributions calculated in this section shall be disbursed on a monthly basis by the corporation ~~agency~~ beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(6) shall be calculated by the corporation ~~agency~~ for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(6) reduced by the guaranteed amount paid to all counties.

(2) Effective July 1, 1995, distributions calculated in this section shall be disbursed on a monthly basis by the corporation ~~agency~~ beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(7) shall be calculated by the corporation ~~agency~~ for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(7) as reduced by the guaranteed amount paid to all counties.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 83. Effective July 1, 2001, subsections (1) and (2) of section 420.9073, Florida Statutes, as amended by section 49 of chapter 99-247, Laws of Florida, are amended to read:

420.9073 Local housing distributions.—

(1) Distributions calculated in this section shall be disbursed on a monthly basis by the corporation ~~agency~~ beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(9) shall be calculated by the corporation ~~agency~~ for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(9) reduced by the guaranteed amount paid to all counties.

(2) Effective July 1, 1995, distributions calculated in this section shall be disbursed on a monthly basis by the corporation ~~agency~~ beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(10) shall be calculated by the corporation ~~agency~~ for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(10) as reduced by the guaranteed amount paid to all counties.

Reviser's note.—Amended to conform to the redesignation of the Florida Housing Finance Agency as the Florida Housing Finance Corporation by s. 7, ch. 97-167, Laws of Florida.

Section 84. Subsection (2) of section 421.10, Florida Statutes, is amended to read:

421.10 Rentals and tenant selection.—

(2) Nothing contained in this section or s. 421.09, shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or s. 421.09 ~~the preceding section~~.

Reviser's note.—Amended to conform to the codification of s. 9, ch. 17981, 1937, Laws of Florida, as s. 421.09. Section 421.10 was enacted by s. 10, ch. 17981, 1937, and included the reference to "the preceding section."

Section 85. Section 421.33, Florida Statutes, is amended to read:

421.33 Housing applications by farmers.—The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority created for a county or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income. Provided, however, that if it becomes necessary for an applicant under this section ~~paragraph~~ to convey any portion of the applicant's then homestead in order to take advantages as provided herein, then in that event, the parting with title to a portion of said homestead shall not affect the remaining portion of same, but all rights that said owner may have in and to same under and by virtue of the Constitution of the state or any law passed pursuant thereto, shall be deemed and held to apply to such remaining portion of said land, the title of which remains in said applicant; it being the intention of the Legislature to permit the owner of any farm operated or worked upon by farmers of low income in need of safe and sanitary housing to take advantage of the provisions of this law without jeopardizing their rights in their then homestead by reason of any requirement that may be necessary in order for them to receive the benefits

herein provided; and no court shall ever construe that an applicant who has taken advantage of this law has in any manner, shape or form abandoned his or her rights in any property that is the applicant's then homestead by virtue of such action upon his or her part, but it shall be held, construed and deemed that such action upon the part of any applicant hereunder was not any abandonment of the applicant's then homestead, and that all rights that the applicant then had therein shall be and remain as provided by the Constitution and any law enacted pursuant thereto.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 421.33 is not divided into paragraphs.

Section 86. Paragraph (i) of subsection (1) of section 430.502, Florida Statutes, is amended to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) There is established:

(i) A memory disorder clinic at Tallahassee Memorial Healthcare ~~Regional Medical Center~~;

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

Reviser's note.—Amended to conform to the current name of the hospital.

Section 87. Paragraph (z) of subsection (2) and paragraph (a) of subsection (3) of section 435.03, Florida Statutes, are amended to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(z) Former s. ~~Section~~ 827.05, relating to negligent treatment of children.

(3) Standards must also ensure that the person:

(a) For employees and employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(6) ~~415.102(5)~~, which has been uncontested or upheld under s. 415.103.

Reviser's note.—Paragraph (2)(z) is amended to improve clarity and facilitate correct interpretation. Section 827.05 was repealed by s. 11, ch. 96-

322, Laws of Florida, and by s. 31, ch. 96-388, Laws of Florida. Paragraph (3)(a) is amended to conform to the redesignation of s. 415.102(5) as s. 415.102(6) by s. 94, ch. 95-418, Laws of Florida.

Section 88. Paragraph (ee) of subsection (2) and paragraph (a) of subsection (3) of section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(ee) Former s. ~~Section~~ 827.05, relating to negligent treatment of children.

(3) Standards must also ensure that the person:

(a) For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(6) ~~415.102(5)~~, which has been uncontested or upheld under s. 415.103.

Reviser's note.—Paragraph (2)(ee) is amended to improve clarity and facilitate correct interpretation. Section 827.05 was repealed by s. 11, ch. 96-322, Laws of Florida, and by s. 31, ch. 96-388, Laws of Florida. Paragraph (3)(a) is amended to conform to the redesignation of s. 415.102(5) as s. 415.102(6) by s. 94, ch. 95-418, Laws of Florida.

Section 89. Paragraph (d) of subsection (23) and subsection (33) of section 440.02, Florida Statutes, are amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(23) "Self-insurer" means:

(d) A public utility as defined in s. 364.02 or s. 366.02 that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 624.46225 ~~440.571~~; or

(33) "Insolvent member" means an individual self-insurer which is a member of the Florida Self-Insurers Guaranty Association, Incorporated, or which was a member and has withdrawn pursuant to s. 440.385(1)(b), and which has been found insolvent, as defined in subparagraph (34)(a)1., subparagraph (34)(a)2., or subparagraph (34)(a)3. ~~paragraph (34)(a), paragraph (34)(b), or paragraph (34)(c)~~, by a court of competent jurisdiction in this or any other state, or meets the definition of subparagraph (34)(a)4. ~~paragraph (34)(d).~~

Reviser's note.—Paragraph (23)(d) is amended to conform to the redesignation of s. 440.571 as s. 624.46225 by s. 81, ch. 93-415, Laws of Florida.

Subsection (33) is amended to conform to the redesignation of paragraphs (31)(a), (b), (c), and (d) as subparagraphs (31)(a)1., 2., 3., and 4. by s. 2, ch. 93-415, and the further redesignation of subsection (31) as subsection (34) by s. 1, ch. 98-174, Laws of Florida.

Section 90. Section 440.021, Florida Statutes, is amended to read:

440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part thereof. Communications of the result of investigations by the division pursuant to s. 440.185(4) are exempt from chapter 120. In all instances in which the division institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest and after such investigation as may be necessary, the division shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the division does not agree with the protest, it shall refer the matter to the judge of compensation claims for determination pursuant to s. 440.25(2)-(5) ~~440.25(3) and (4)~~. Such action of the division is exempt from the provisions of chapter 120.

Reviser's note.—Amended to conform to the redesignation of s. 440.25(3) and (4) as s. 440.25(2)-(5) by s. 30, ch. 93-415, Laws of Florida.

Section 91. Subsection (4) of section 440.14, Florida Statutes, is amended to read:

440.14 Determination of pay.—

(4) Upon termination of the employee or upon termination of the payment of fringe benefits of any employee who is collecting indemnity benefits pursuant to s. 440.15(2) or (3)(b), the employer shall within 7 days of such termination file a corrected 13-week wage statement reflecting the wages paid and the fringe benefits that had been paid to the injured employee as defined in s. 440.02(27) ~~440.02(21)~~.

Reviser's note.—Amended to conform to the redesignation of s. 440.02(21) as s. 440.02(23) by s. 3, ch. 89-289, Laws of Florida; further redesignation as s. 440.02(24) by s. 9, ch. 90-201, Laws of Florida; and further redesignation as s. 440.02(27) by s. 1, ch. 98-174, Laws of Florida.

Section 92. Paragraph (f) of subsection (1), paragraph (c) of subsection (2), and paragraph (c) of subsection (10) of section 440.15, Florida Statutes, are amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(f)1. If permanent total disability results from injuries that occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under s. 440.20(11) ~~440.20(12)~~, the injured employee shall receive additional weekly compensation benefits equal to 5 percent of her or his weekly compensation rate, as established pursuant to the law in effect on the date of her or his injury, multiplied by the number of calendar years since the date of injury. The weekly compensation payable and the additional benefits payable under this paragraph, when combined, may not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). Entitlement to these supplemental payments shall cease at age 62 if the employee is eligible for social security benefits under 42 U.S.C. ss. 402 and 423, whether or not the employee has applied for such benefits. These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by such rules.

b. The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier is not required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules or if any employee who is receiving permanent total disability benefits refuses to apply for or cooperate with the employer or carrier in applying for social security benefits.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(2) TEMPORARY TOTAL DISABILITY.—

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9) ~~440.02(8)~~, the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(f) ~~(1)(e)~~, shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 402 and 423 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the division, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to her or him and authorize the Division of Unemployment Compensation to release unemployment compensation information relating to her or him, in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(f) ~~(1)(e)~~ for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by such rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the division may prescribe by rule.

Reviser's note.—Paragraph (1)(f) is amended to conform to the redesignation of s. 440.20(12) as s. 440.20(11) by s. 26, ch. 93-415, Laws of Florida. Paragraph (2)(c) is amended to conform to the redesignation of s. 440.02(8) as s. 440.02(9) by s. 1, ch. 98-174, Laws of Florida. Paragraph (10)(c) is amended to conform to the redesignation of s. 440.15(1)(e) as s. 440.15(1)(f) by s. 20, ch. 93-415.

Section 93. Subsection (7) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(7) Every carrier shall file with the division within 21 days after the issuance of a policy or contract of insurance such policy information as the division may require, including notice of whether the policy is a minimum premium policy. Notice of cancellation or expiration of a policy as set out in s. 440.42(3) ~~440.42(2)~~ shall be mailed to the division in accordance with rules promulgated by the division under chapter 120.

Reviser's note.—Amended to conform to the redesignation of s. 440.42(2) as s. 440.42(3) by s. 10, ch. 98-174, Laws of Florida.

Section 94. Subsection (1) of section 440.191, Florida Statutes, is reenacted to read:

440.191 Employee Assistance and Ombudsman Office.—

(1)(a) In order to effect the self-executing features of the Workers' Compensation Law, this chapter shall be construed to permit injured employees

and employers or the employer's carrier to resolve disagreements without undue expense, costly litigation, or delay in the provisions of benefits. It is the duty of all who participate in the workers' compensation system, including, but not limited to, carriers, service providers, health care providers, attorneys, employers, and employees, to attempt to resolve disagreements in good faith and to cooperate with the division's efforts to resolve disagreements between the parties. The division may by rule prescribe definitions that are necessary for the effective administration of this section.

(b) An Employee Assistance and Ombudsman Office is created within the Division of Workers' Compensation to inform and assist injured workers, employers, carriers, and health care providers in fulfilling their responsibilities under this chapter. The division may by rule specify forms and procedures for administering requests for assistance provided by this section.

(c) The Employee Assistance and Ombudsman Office, Division of Workers' Compensation, shall be a resource available to all employees who participate in the workers' compensation system and shall take all steps necessary to educate and disseminate information to employees and employers.

Reviser's note.—Section 5, ch. 98-125, Laws of Florida, purported to amend s. 440.191(1), but failed to republish paragraph (1)(c). In the absence of affirmative evidence that the Legislature intended to repeal paragraph (1)(c), subsection (1) is reenacted to confirm that the omission was not intended.

Section 95. Subsection (3) of section 440.25, Florida Statutes, is amended to read:

440.25 Procedures for mediation and hearings.—

(3) Such mediation conference shall be conducted informally and does not require the use of formal rules of evidence or procedure. Any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation conference under this section obtained by any person performing mediation duties is privileged and confidential and may not be disclosed without the written consent of all parties to the conference. Any research or evaluation effort directed at assessing the mediation program activities or performance must protect the confidentiality of such information. Each party to a mediation conference has a privilege during and after the conference to refuse to disclose and to prevent another from disclosing communications made during the conference whether or not the contested issues are successfully resolved. This subsection and paragraphs (4)(a) and (b) ~~paragraph~~ shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rule of procedure, except that any conduct or statements made during a mediation conference or in negotiations concerning the conference are inadmissible in any proceeding under this chapter. The Chief Judge shall select a mediator. The mediator shall be employed on a full-time basis by the Office of the Judges of Compensation Claims. A mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Chief Judge. Adjunct mediators may be

employed by the Office of the Judges of Compensation Claims on an as-needed basis and shall be selected from a list prepared by the Chief Judge. An adjunct mediator must be independent of all parties participating in the mediation conference. An adjunct mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Chief Judge. An adjunct mediator shall have access to the office, equipment, and supplies of the judge of compensation claims in each district. In the event both parties agree, the results of the mediation conference shall be binding and neither party shall have a right to appeal the results. In the event either party refuses to agree to the results of the mediation conference, the results of the mediation conference as well as the testimony, witnesses, and evidence presented at the conference shall not be admissible at any subsequent proceeding on the claim. The mediator shall not be called in to testify or give deposition to resolve any claim for any hearing before the judge of compensation claims. The employer may be represented by an attorney at the mediation conference if the employee is also represented by an attorney at the mediation conference.

Reviser's note.—Amended to conform to the redesignation of former s. 440.25(3)(b) as s. 440.25(3) and (4)(a) and (b) by s. 30, ch. 93-415, Laws of Florida.

Section 96. Paragraphs (d) and (f) of subsection (1) of section 440.38, Florida Statutes, are amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 624.4622 ~~440.575~~;

(f) By entering into a contract with an individual self-insurer under an approved individual self-insurer-provided self-insurance program as set forth in s. 624.46225 ~~440.571~~. The division may adopt rules to implement this subsection.

Reviser's note.—Paragraph (1)(d) is amended to conform to the redesignation of s. 440.575 as s. 624.4622 by s. 80, ch. 93-415, Laws of Florida. Paragraph (1)(f) is amended to conform to the redesignation of s. 440.571 as s. 624.46225 by s. 81, ch. 93-415.

Section 97. Paragraph (a) of subsection (1) of section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(1) CREATION OF ASSOCIATION.—

(a) There is created a nonprofit corporation to be known as the "Florida Self-Insurers Guaranty Association, Incorporated," hereinafter referred to

as "the association." Upon incorporation of the association, all individual self-insurers as defined in ss. 440.02(23)(a) ~~440.02(21)(a)~~ and 440.38(1)(b), other than individual self-insurers which are public utilities or governmental entities, shall be members of the association as a condition of their authority to individually self-insure in this state. The association shall perform its functions under a plan of operation as established and approved under subsection (5) and shall exercise its powers and duties through a board of directors as established under subsection (2). The corporation shall have those powers granted or permitted corporations not for profit, as provided in chapter 617.

Reviser's note.—Amended to conform to the redesignation of s. 440.02(21)(a) as s. 440.02(23)(a) by s. 1, ch. 98-174, Laws of Florida.

Section 98. Subsections (4) and (5), paragraph (c) of subsection (6), paragraph (e) of subsection (7), and paragraph (b) of subsection (13) of section 440.49, Florida Statutes, are amended to read:

440.49 Limitation of liability for subsequent injury through Special Disability Trust Fund.—

(4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER OTHER PHYSICAL IMPAIRMENT.—

(a) Permanent impairment.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (9) ~~(8)~~ for 50 percent of all impairment benefits which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

(b) Permanent total disability.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (9) ~~(8)~~ for 50 percent of all compensation for permanent total disability.

(c) Temporary compensation and medical benefits; aggravation or acceleration of preexisting condition or circumstantial causation.—If an employee who has a preexisting permanent physical impairment experiences an aggravation or acceleration of the preexisting permanent physical impairment as a result of an injury or occupational disease arising out of and in the course of her or his employment, or suffers an injury as a result of a

merger as defined in paragraph(2)(c) ~~subparagraph (1)(b)2.~~, the employer shall provide all benefits provided by this chapter, but, subject to the limitations specified in subsection (7), the employer shall be reimbursed by the Special Disability Trust Fund created by subsection (9) ~~(8)~~ for 50 percent of its payments for temporary, medical, and attendant care benefits.

(5) WHEN DEATH RESULTS.—If death results from the subsequent permanent impairment contemplated in subsection (4) ~~paragraph (c)~~ within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it is determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter; but, subject to the limitations specified in subsection (6), she or he shall be reimbursed from the Special Disability Trust Fund created by subsection (9) ~~(8)~~ for the last 50 percent of all compensation allowable and paid for such death and for 50 percent of the amount paid as funeral expenses.

(6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

(c) An employer's or carrier's right to apportionment or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and 440.151(1)(c) does not preclude reimbursement from such fund, except when the merger comes within the definition of paragraph (2)(c) ~~subparagraph (2)(b)2.~~ and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in those paragraphs.

(7) REIMBURSEMENT OF EMPLOYER.—

(e) For dates of accident on or after January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over $10,000 in benefits, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the division or administrator at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(11) ~~440.20(12)~~, shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund.

(13) SPECIAL DISABILITY TRUST FUND PRIVATIZATION COMMISSION.—

(b) Consistent with the closing of the fund provided in subsection (11), the Special Disability Trust Fund Privatization Commission is authorized to contract with an administrator to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund under this section. The commission, in consultation with the division, is authorized to contract with a qualified entity to assume the reimbursement obligations of the Special Disability Trust Fund for claims which have previously been ~~have~~ accepted for reimbursement by the Special Disability Trust Fund and claims which are determined to be reimbursable by the Special Disability Trust Fund. The qualified entity and the administrator shall not be affiliates of the other, and shall not establish or maintain a financial or contractual agreement with each other for purposes of this section. On or before July 1, 1999, the commission, in consultation with the division, may develop and issue a request for proposal for the transfer and assumption of liabilities, and administration of certain functions related to claims of the Special Disability Trust Fund. The administrator shall have experience in workers' compensation claims management of sufficient scope and size to undertake the duties and responsibilities of this section and shall demonstrate the ability to meet the criteria established by the commission, which shall include the ability to substantially reduce the overall costs of reviewing and reimbursing claims, and to settle and extinguish the liabilities of the Special Disability Trust Fund in a more cost-efficient and more timely manner than presently provided by the division. In the event liabilities on the Special Disabilities Trust Fund are transferred to and assumed by a qualified entity, such entity shall provide the state with financial assurance as to the satisfaction of any such liabilities or claims and the state and the Special Disability Trust Fund shall have no further liability with respect to those liabilities and claims. The financial assurances may include, but are not limited to, cash reserves, reinsurance, guarantees, or letters of credit.

Reviser's note.—Subsections (4) and (5) are amended to conform to the redesignation of subunits of s. 440.49 by s. 43, ch. 93-415, Laws of Florida. Paragraphs (4)(c) and (6)(c) are amended to conform to the definition of "merger" in paragraph (2)(c). Paragraph (7)(e) is amended to conform to the redesignation of s. 440.20(12) as s. 440.20(11) by s. 26, ch. 93-415. Paragraph (13)(b) is amended to improve clarity and facilitate correct interpretation.

Section 99. Paragraph (b) of subsection (1) and subsection (5) of section 440.51, Florida Statutes, are amended to read:

440.51 Expenses of administration.—

(1) The division shall estimate annually in advance the amounts necessary for the administration of this chapter, in the following manner.

(b) The total expenses of administration shall be prorated among the insurance companies writing compensation insurance in the state and self-insurers. The net premiums collected by the companies and the amount of premiums a self-insurer would have to pay if insured are the basis for computing the amount to be assessed. This amount may be assessed as a

specific amount or as a percentage of net premiums payable as the division may direct, provided such amount so assessed shall not exceed 4 percent of such net premiums. The insurance companies may elect to make the payments required under s. 440.15(1)(f) ~~440.15(1)(e)~~ rather than having these payments made by the division. In that event, such payments will be credited to the insurance companies, and the amount due by the insurance company under this section will be reduced accordingly.

(5) Any amount so assessed against and paid by an insurance carrier, self-insurer authorized pursuant to s. 624.4621 ~~440.57~~, or commercial self-insurance fund authorized under ss. 624.460-624.488 shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund.

Reviser's note.—Paragraph (1)(b) is amended to conform to the redesignation of s. 440.15(1)(e) as s. 440.15(1)(f) by s. 20, ch. 93-415, Laws of Florida. Subsection (5) is amended to conform to the redesignation of s. 440.57 as s. 624.4621 by s. 79, ch. 93-415.

Section 100. Paragraph (n) of subsection (21) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(21) EMPLOYMENT.—"Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him or her.

(n) Exclusions generally.—The term "employment" does not include:

1. Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in paragraph (g).

2. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

3. Service performed by an individual in, or as an officer or member of the crew of a vessel while it is engaged in, the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed by any such individual as an ordinary incident to any such activity, except:

a. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes.

b. Service performed on, or in connection with, a vessel of more than 10 net tons, determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

4. Service performed by an individual in the employ of his or her son, daughter, or spouse, including step relationships, and service performed by a child, or stepchild, under the age of 21 in the employ of his or her father or mother, or stepfather or stepmother.

5. Service performed in the employ of the United States Government or of an instrumentality of the United States which is:

a. Wholly or partially owned by the United States.

b. Exempt from the tax imposed by s. 3301 of the Internal Revenue Code by virtue of any provision of federal law which specifically refers to such section, or the corresponding section of prior law, in granting such exemption; except that to the extent that the Congress shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. If this state is not certified for any year by the Secretary of Labor under s. 3304 of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in s. 443.141(6) with respect to contributions erroneously collected.

6. Service performed in the employ of a state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions, except as provided in paragraph (b), and any service performed in the employ of any instrumentality of one or more states or political subdivisions, to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by s. 3301 of the Internal Revenue Code.

7. Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office, except as provided in paragraph (c).

8. Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress.

9.a. Service performed in any calendar quarter in the employ of any organization exempt from income tax under s. 501(a) of the Internal Reve-

nue Code, other than an organization described in s. 401(a), or under s. 521, if the remuneration for such service is less than $50.

b. Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

10. Service performed in the employ of a foreign government, including service as a consular or other officer or employee of a nondiplomatic representative.

11. Service performed in the employ of an instrumentality wholly owned by a foreign government:

a. If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

b. The Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

12. Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to a state law; service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school chartered or approved pursuant to state law; and service performed by a patient of a hospital for such hospital.

13. Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission, except for such services performed in accordance with 26 U.S.C.S. s. 3306(c)(7) and (8). For purposes of this subsection, those benefits excluded from the definition of wages pursuant to subparagraphs (40)(b)2.-6. ~~(33)(b)2.-6.~~, inclusive, shall not be considered remuneration.

14. Service performed by an individual for a person as a real estate salesperson or agent, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

15. Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

16. Service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such federal law.

17. Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

18. Service performed by an individual for a person as a barber, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

19. Casual labor not in the course of the employer's trade or business.

20. Service performed by a speech therapist, occupational therapist, or physical therapist who is nonsalaried and working pursuant to a written contract with a home health agency as defined in s. 400.462.

21. Service performed by a direct seller. For purposes of this subparagraph, the term "direct seller" means a person:

a.(I) Who is engaged in the trade or business of selling or soliciting the sale of consumer products to buyers on a buy-sell basis or a deposit-commission basis, or on any similar basis, for resale in the home or in any other place that is not a permanent retail establishment; or

(II) Who is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in any other place that is not a permanent retail establishment;

b. Substantially all of whose remuneration for services described in sub-subparagraph a., whether or not paid in cash, is directly related to sales or other output, rather than to the number of hours worked; and

c. Who performs such services pursuant to a written contract with the person for whom the services are performed, which contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

22. Service performed by a nonresident alien individual for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F) or subparagraph (J) of s. 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose specified in subparagraph (F) or subparagraph (J), as the case may be.

23. Service performed by an individual for remuneration for a private, for-profit delivery or messenger service, if the individual:

a. Is free to accept or reject jobs from the delivery or messenger service and the delivery or messenger service has no control over when the individual works;

b. Is remunerated for each delivery, or the remuneration is based on factors that relate to the work performed, including receipt of a percentage of any rate schedule;

c. Pays all expenses and the opportunity for profit or loss rests solely with the individual;

d. Is responsible for operating costs, including fuel, repairs, supplies, and motor vehicle insurance;

e. Determines the method of performing the service, including selection of routes and order of deliveries;

f. Is responsible for the completion of a specific job and is liable for any failure to complete that job;

g. Enters into a contract with the delivery or messenger service which specifies the relationship of the individual to the delivery or messenger service to be that of an independent contractor and not that of an employee; and

h. Provides the vehicle used to perform the service.

24. Service performed in agricultural labor by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to ss. 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act.

25. Service performed by a person who is an inmate of a penal institution.

Reviser's note.—Amended to conform to the redesignation of subparagraphs (33)(b)2.-6. of s. 443.036 as subparagraphs (40)(b)2.-6. by s. 4, ch. 98-149, Laws of Florida.

Section 101. Paragraph (b) of subsection (2) of section 443.041, Florida Statutes, is amended to read:

443.041 Waiver of rights; fees; privileged communications.—

(2) FEES.—

(b) An attorney at law representing a claimant for benefits in any district court of appeal of this state or in the Supreme Court of Florida is entitled to counsel fees payable by the division as fixed by the court if the petition for review or appeal is initiated by the claimant and results in a decision awarding more benefits than did the decision from which appeal was taken. The amount of the fee may not exceed 50 percent of the regular benefits awarded under s. 443.111(5)(a) ~~443.111(4)(a)~~ during the benefit year.

Reviser's note.—Amended to conform to the redesignation of s. 443.111(4)(a) as s. 443.111(5)(a) by s. 5, ch. 96-378, Laws of Florida, and s. 21, ch. 96-423, Laws of Florida.

Section 102. Paragraphs (f), (g), and (h) of subsection (7) of section 443.111, Florida Statutes, are amended to read:

443.111 Payment of benefits.—

(7) SHORT-TIME COMPENSATION PROGRAM.—

(f) Weekly short-time compensation benefit amount.—The weekly short-time compensation benefit amount payable to an individual shall be an amount equal to the product of her or his weekly benefit amount as provided in subsection (3) ~~(2)~~ and the ratio of the number of normal weekly hours of work for which the employer would not compensate the individual to the individual's normal weekly hours of work. Such benefit amount, if not a multiple of $1, shall be rounded downward to the next lower multiple of $1.

(g) Total short-time compensation benefit amount.—No individual shall be paid benefits under this paragraph in any benefit year for more than the maximum entitlement provided in subsection (5) ~~(4)~~, nor shall an individual be paid short-time compensation benefits for more than 26 weeks in any benefit year.

(h) Effect of short-time compensation benefits relating to the payment of regular and extended benefits.—

1. The short-time compensation benefits paid to an individual shall be deducted from the total benefit amount established for that individual as provided in subsection (5) ~~(4)~~.

2. An individual who has received all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of the extended benefits program as provided in subsection (6) ~~(5)~~ and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.

3. No otherwise eligible individual shall be disqualified from benefits for leaving employment instead of accepting a reduction in hours pursuant to the implementation of an approved plan.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 443.111 by s. 5, ch. 96-378, Laws of Florida, and s. 21, ch. 96-423, Laws of Florida.

Section 103. Subsection (5) of section 443.141, Florida Statutes, is amended to read:

443.141 Collection of contributions.—

(5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefit of creditors, adjudicated insolvency, composition, administration of estates of decedents, or other similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except claims for wages of not more than $250 to each claimant, earned within 6 months of the commencement of the proceeding, and on a parity with all other tax claims wherever such tax claims have been given

priority. In the administration of the estate of any decedent, the filing of notice of lien shall be deemed a proceeding required upon protest of the claim filed by the division for contributions due under this chapter, and such claim shall be allowed by the circuit judge. However, the personal representative of the decedent may by petition to the circuit court object to the validity of the claim of the division, and proceedings shall be had in the circuit court for the determination of the validity of the claim of the division. Further, the bond of the personal representative shall not be discharged until such claim is finally determined by the circuit court; and, when no bond has been given by the personal representative, none of the assets of the estate shall be distributed until such final determination by the circuit court. Upon distribution of the assets of the estate of any decedent, the claim of the division shall have class 8 ~~7~~ priority established in s. 733.707(1)(h) ~~733.707(1)(g)~~, subject to the above limitations with reference to wages. In the event of any employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in s. 64B of that act (U.S.C. Title II, s. 104(b), as amended).

Reviser's note.—Amended to conform to the redesignation of class 7 priority in s. 733.707(1)(g) as class 8 priority in s. 733.707(1)(h) by s. 20, ch. 93-208, Laws of Florida.

Section 104. Paragraph (a) of subsection (3) and paragraph (e) of subsection (6) of section 443.151, Florida Statutes, are amended to read:

443.151 Procedure concerning claims.—

(3) DETERMINATION.—

(a) In general.—An initial determination upon a claim filed pursuant to subsection (2) shall be made promptly by an examiner designated by the division, shall include a statement as to whether and in what amount claimant is entitled to benefits, and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under s. 443.091(1)(f) ~~443.091(1)(e)~~ and, if so, the first day of the benefit year, the claimant's weekly benefit amount, and the maximum total amount of benefits payable to the claimant with respect to a benefit year. The claimant, the claimant's most recent employing unit, and all employers whose accounts would be charged with benefits pursuant to such determination shall be promptly notified of such initial determination; and such determination shall be final unless within 20 days after the mailing of such notices to the parties' last known addresses, or in the absence of such mailing, within 20 days after the delivery of such notice, appeal or written request for reconsideration is filed by the claimant or other party entitled to such notice.

(6) RECOVERY AND RECOUPMENT.—

(e) Notwithstanding any other provision of this chapter, any person who has been determined by either this state, a cooperating state agency, the

United States Secretary of Labor, or a court of competent jurisdiction to have received any payments under the Trade Act of 1974, as amended, to which the person was not entitled shall have such sum deducted from any regular benefits, as defined in s. 443.111(6)(a)5. ~~443.111(5)(a)5.~~, payable to her or him under this chapter; except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable. The amounts so deducted shall be paid to the agency which issued the payments under the Trade Act of 1974, as amended, for return to the United States Treasury. However, except for overpayments determined by a court of competent jurisdiction, no deduction may be made under this paragraph until a determination by the state agency or the United States Secretary of Labor has become final.

Reviser's note.—Paragraph (3)(a) is amended to conform to the redesignation of s. 443.091(1)(e) as s. 443.091(1)(f) by s. 3, ch. 94-347, Laws of Florida. Paragraph (6)(e) is amended to conform to the redesignation of s. 443.111(5)(a)5. as s. 443.111(6)(a)5. by s. 5, ch. 96-378, Laws of Florida, and s. 21, ch. 96-423, Laws of Florida.

Section 105. Subsection (7) and paragraph (a) of subsection (11) of section 443.171, Florida Statutes, are amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports.—

(7) RECORDS AND REPORTS.—Each employing unit shall keep true and accurate work records, containing such information as the division may prescribe. Such records shall be open to inspection and be subject to being copied by the division at any reasonable time and as often as may be necessary. The division or an appeals referee may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, deemed necessary for the effective administration of this chapter. However, a state or local governmental agency performing intelligence or counterintelligence functions need not report an employee if the head of such agency has determined that reporting the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission. Information revealing the employing unit's or individual's identity thus obtained from the employing unit or from any individual pursuant to the administration of this chapter, shall, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, be held confidential and exempt from the provisions of s. 119.07(1). Such information shall be available only to public employees in the performance of their public duties, including employees of the Department of Education in obtaining information for the Florida Education and Training Placement Information Program and the Office of Tourism, Trade, and Economic Development ~~Department of Commerce~~ in its administration of the qualified defense contractor tax refund program authorized by s. 288.1045 ~~288.104~~, the qualified target industry business tax refund program authorized by s. 288.106. Any claimant, or the claimant's legal representative, at a hearing before an appeals referee or the commission shall be supplied with information from such records to the extent necessary for the proper presentation of her or his

claim. Any employee or member of the commission or any employee of the division, or any other person receiving confidential information, who violates any provision of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, the division may furnish to any employer copies of any report previously submitted by such employer, upon the request of such employer, and the division is authorized to charge therefor such reasonable fee as the division may by rule prescribe not to exceed the actual reasonable cost of the preparation of such copies. Fees received by the division for copies provided under this subsection shall be deposited to the credit of the Employment Security Administration Trust Fund.

(11) STATE-FEDERAL COOPERATION.—

(a)1. In the administration of this chapter, the division shall cooperate with the United States Department of Labor to the fullest extent consistent with the provisions of this chapter and shall take such action, through the adoption of appropriate rules, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970, or other federal manpower acts.

2. In the administration of the provisions in s. 443.111(6) ~~443.111(5)~~, which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the division shall take such action as may be necessary to ensure that the provisions are so interpreted and applied as to meet the requirements of such federal act as interpreted by the United States Department of Labor and to secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal act.

3. The division shall comply with the regulations of the United States Department of Labor relating to the receipt or expenditure by this state of moneys granted under any of such acts; shall make such reports, in such form and containing such information, as the United States Department of Labor may from time to time require; and shall comply with such provisions as the United States Department of Labor may from time to time find necessary to assure the correctness and verification of such reports.

Reviser's note.—Subsection (7) is amended to conform to the substitution of the Office of Tourism, Trade, and Economic Development for the Department of Commerce for purposes of s. 288.106 by s. 44, ch. 96-320, Laws of Florida, and the repeal of s. 288.104 by s. 8, ch. 96-348, Laws of Florida, and the enactment of new s. 288.1045 governing the qualified defense contractor tax refund program by s. 1, ch. 96-348. Paragraph (11)(a) is amended to conform to the redesignation of s. 443.111(5) as s. 443.111(6) by s. 5, ch. 96-378, Laws of Florida, and s. 21, ch. 96-423, Laws of Florida.

Section 106. Paragraph (a) of subsection (5) of section 443.191, Florida Statutes, is amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.—

(5) MONEY CREDITED UNDER SECTION 903 OF THE SOCIAL SECURITY ACT.—

(a) Money credited to the account of this state in the Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States pursuant to s. 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this law. Such money may be requisitioned pursuant to subsection (3) for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this law but only pursuant to a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

1. Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

2. Limits the period within which such money may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

3. Limits the amount which may be obligated during any 12-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which the aggregate of the amounts credited to the account of this state pursuant to s. 903 of the Social Security Act during the same 12-month period and the 34 preceding 12-month periods, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such 35 12-month periods.

4. Notwithstanding this paragraph ~~subparagraph 1.~~, money credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and such money shall not otherwise be subject to the requirements of this paragraph ~~subparagraph 1.~~ when appropriated by the Legislature.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation and to conform to the reference as specified in federal model language.

Section 107. Subsections (1) and (9) of section 446.22, Florida Statutes, are amended to read:

446.22 Definitions.—As used in this act, the following words and phrases shall have the meanings set forth herein, except where the context otherwise requires:

(1) "Advisory council" means the State Human Resource Investment ~~Job Training Coordinating~~ Council, as created and described by s. 446.20(2).

(9) "Private industry council" means an organization comprised of private businesses, local government, education, welfare agencies, organized labor, and community-based organizations designated by the State Human Resource Investment ~~Job Training Coordinating~~ Council under the federal Job Training Partnership Act to deliver training and educational services to youth and unemployed persons.

Reviser's note.—Amended to conform to the redesignation of the State Job Training Coordinating Council as the State Human Resource Investment Council by s. 7, ch. 96-404, Laws of Florida.

Section 108. Subsection (3) of section 446.25, Florida Statutes, is amended to read:

446.25 Implementation.—

(3) The State Human Resource Investment ~~Job Training Coordinating~~ Council shall review proposed operational policies and rules associated with the program and shall act as advisory council to this program for the purpose of:

(a) Establishing general performance standards in conjunction with the department guidelines.

(b) Making recommendations to the department with regard to the establishment of program criteria.

(c) Assisting in the development of linkages with potential public and private sector participants in the program.

(d) Advising the department of changes to the federal Job Training Partnership Act which may impact this program.

(e) Providing for followup studies and evaluating the program in conjunction with the Department of Labor and Employment Security.

Reviser's note.—Amended to conform to the redesignation of the State Job Training Coordinating Council as the State Human Resource Investment Council by s. 7, ch. 96-404, Laws of Florida.

Section 109. Subsection (1) of section 455.01, Florida Statutes, is amended to read:

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

(1) "Board" means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, including the Florida Real Estate Commission; except that, for ss. 455.201-455.245 ~~455.201-455.261~~, "board" means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Certified Public Accounting, the Division of Professions, or the Division of Real Estate.

Reviser's note.—Amended to conform to the transfer of s. 455.261 to s. 455.707 by s. 94, ch. 97-261, Laws of Florida. The last section of the range, which pertains to professions regulated by the Department of Business and Professional Regulation, is now s. 455.245. Section 455.707 pertains to professions regulated by the Department of Health.

Section 110. Paragraph (a) of subsection (2) of section 455.557, Florida Statutes, is repealed, and paragraph (b) of subsection (3) and subsections (5), (8), and (9) of that section are amended to read:

455.557 Standardized credentialing for health care practitioners.—

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(b) The department shall:

1. Maintain a complete, current file of core credentials data on each health care practitioner, which shall include all updates provided in accordance with subparagraph (a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119. ~~The actual cost shall be set in consultation with the advisory council.~~

4. Develop~~, in consultation with the advisory council,~~ standardized forms to be used by the health care practitioner or designated credentials verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto.

~~5. Establish a Credentials Advisory Council, consisting of 13 members, to assist the department as provided in this section. The secretary, or his or her designee, shall serve as one member and chair of the council and shall appoint the remaining 12 members. Except for any initial lesser term required to achieve staggering, such appointments shall be for 4-year staggered terms, with one 4-year reappointment, as applicable. Three members shall represent hospitals, and two members shall represent health maintenance organizations. One member shall represent health insurance entities. One member shall represent the credentials verification industry. Two members shall represent physicians licensed under chapter 458. One member shall represent osteopathic physicians licensed under chapter 459. One member shall represent chiropractic physicians licensed under chapter 460. One member shall represent podiatric physicians licensed under chapter 461.~~

(5) STANDARDS AND REGISTRATION.—Any credentials verification organization that does business in this state must be fully accredited or

certified as a credentials verification organization by a national accrediting organization as specified in paragraph (2)(b) and must register with the department. The department may charge a reasonable registration fee, ~~set in consultation with the advisory council,~~ not to exceed an amount sufficient to cover its actual expenses in providing and enforcing such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an application for renewal of registration or in revocation or suspension of a registration.

(8) RULES.—The department~~, in consultation with the advisory council,~~ shall adopt rules necessary to develop and implement the standardized core credentials data collection program established by this section.

(9) ~~COUNCIL ABOLISHED;~~ DEPARTMENT AUTHORITY.—~~The council shall be abolished October 1, 1999. After the council is abolished,~~ All duties of the department required under this section ~~to be in consultation with the council~~ may be carried out by the department ~~on its own~~.

Reviser's note.—Amended to conform to the abolishment of the Credentials Advisory Council on October 1, 1999, pursuant to s. 75, ch. 99-397, Laws of Florida.

Section 111. Subsections (1) and (2) of section 455.5651, Florida Statutes, are amended to read:

455.5651 Practitioner profile; creation.—

(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to s. 455.565 ~~section 1~~ into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under s. 455.565(4)(b) ~~paragraph 1(4)(b)~~.

(2) On the profile required under subsection (1), the department shall indicate if the information provided under s. 455.565(1)(a)7. ~~section 1(1)(a)7.~~ is not corroborated by a criminal history check conducted according to this subsection. If the information provided under s. 455.565(1)(a)7. ~~section 1(1)(a)7.~~ is corroborated by the criminal history check, the fact that the criminal history check was performed need not be indicated on the profile. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice.

Reviser's note.—Amended to correct apparent errors, facilitate correct interpretation, and conform to redesignation of references by the reviser

incident to compiling the Florida Statutes 1997. The references to "section 1," "paragraph 1(4)(b)," and "section 1(1)(a)7." in s. 128, ch. 97-237, Laws of Florida, and s. 4, ch. 97-273, Laws of Florida, were not updated to conform to the final location of that material in the laws. The references became "section 127," "paragraph 127(4)(b)," and "section 127(1)(a)7.," respectively, for ch. 97-237 and "section 3," "paragraph 3(4)(b)," and "section 3(1)(a)7.," respectively, for ch. 97-273. The references were codified as "s. 455.565," "s. 455.565(4)(b)," and "s. 455.565(1)(a)7.," respectively, by the reviser.

Section 112. Section 455.5653, Florida Statutes, is amended to read:

455.5653 Practitioner profiles; data storage.—Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under s. 455.565 ~~section 1 of this act~~.

Reviser's note.—Amended to correct an apparent error, facilitate correct interpretation, and conform to redesignation of references by the reviser incident to compiling the Florida Statutes 1997. The references to "section 1 of this act" in s. 130, ch. 97-237, Laws of Florida, and s. 6, ch. 97-273, Laws of Florida, were not updated to conform to the final location of that material in the laws. The references became "section 127" for ch. 97-237 and "section 3" for ch. 97-273. The material was codified as s. 455.565 by the reviser.

Section 113. Section 455.5654, Florida Statutes, is amended to read:

455.5654 Practitioner profiles; rules; workshops.—Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under s. 455.565 ~~section 1~~.

Reviser's note.—Amended to correct an apparent error, facilitate correct interpretation, and conform to redesignation of references by the reviser incident to compiling the Florida Statutes 1997. The references to "section 1" by s. 131, ch. 97-237, Laws of Florida, and s. 7, ch. 97-273, Laws of Florida, were not updated to conform to the final location of that material in the laws. The references became "section 127" for ch. 97-237 and "section 3" for ch. 97-273. The material was codified as s. 455.565 by the reviser.

Section 114. Subsection (6) of section 455.621, Florida Statutes, is amended to read:

455.621 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) ~~(5)~~ being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Subsection (4) provides for a probable cause panel.

Section 115. Subsection (5) of section 458.311, Florida Statutes, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(5) The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this chapter until such investigation is completed. Upon completion of the investigation, the provisions of s. 458.331 shall apply. Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331. When the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, then the board may enter an order imposing one or more of the terms set forth in subsection (8) ~~(9)~~.

Reviser's note.—Amended to conform to the redesignation of s. 458.311(9) as s. 458.311(8) necessitated by the repeal of former subsection (8) by s. 20, ch. 95-145, Laws of Florida.

Section 116. Paragraph (b) of subsection (4) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(4)

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry

of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest, or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the physician, the department shall suspend the license of the physician pursuant to procedures set forth in subparagraphs (5)(g)3., 4., and 5. ~~(5)(g)2., 3., and 4.~~ Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

Reviser's note.—Amended to conform to the redesignation of s. 458.320(5)(g)2., 3., and 4. as s. 458.320(5)(g)3., 4., and 5., respectively, by s. 144, ch. 97-237, Laws of Florida, and s. 20, ch. 97-273, Laws of Florida.

Section 117. Paragraph (b) of subsection (4) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.—

(4)

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the osteopathic physician, the department shall suspend the license of the osteopathic physician pursuant to procedures set forth in subparagraphs (5)(g)3., 4., and 5. ~~(5)(g)2., 3., and 4.~~ Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

Reviser's note.—Amended to conform to the redesignation of s. 459.0085(5)(g)2., 3., and 4. as s. 459.0085(5)(g)3., 4., and 5., respectively, by s. 145, ch. 97-237, Laws of Florida, and s. 21, ch. 97-273, Laws of Florida.

Section 118. Section 459.018, Florida Statutes, is amended to read:

459.018 Search warrants for certain violations.—When the department has reason to believe that violations of s. 459.015(1)(t) ~~459.015(1)(u)~~ or s. 459.015(1)(u) ~~459.015(1)(v)~~ have occurred or are occurring, its agents or other duly authorized persons may search an osteopathic physician's place of practice for purposes of securing such evidence as may be needed for prosecution. Such evidence shall not include any medical records of patients

unless pursuant to the patient's written consent. Notwithstanding the consent of the patient, such records maintained by the department are confidential and exempt from s. 119.07(1). This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue search warrants. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he or she shall issue a search warrant signed by him or her with the judge's name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

Reviser's note.—Amended to conform to the redesignation of subunits necessitated by the repeal of former s. 459.015(1)(k) by s. 2, ch. 92-178, Laws of Florida.

Section 119. Subsection (4) of section 460.406, Florida Statutes, is amended to read:

460.406 Licensure by examination.—

(4) The department shall submit written notification within 5 working days to applicants who have successfully completed the requirements of paragraphs (1)(a)-(e) ~~(1)(a)-(f)~~ and who have successfully passed the state licensure examination. An applicant who is notified in writing by the department of the successful completion of requirements in paragraphs (1)(a)-(e) ~~(1)(a)-(f)~~ and who has successfully passed the state licensure examination may lawfully practice pending receipt of the certificate of licensure, and the written notification shall act as evidence of licensure entitling the chiropractic physician to practice for a maximum period of 45 days or until the licensing fee is received by the department whichever is sooner.

Reviser's note.—Amended to conform to the redesignation of paragraphs (1)(a)-(f) as paragraphs (1)(a)-(e) by s. 106, ch. 99-397, Laws of Florida.

Section 120. Section 462.09, Florida Statutes, is amended to read:

462.09 Disposition of fees.—All fees received under this chapter shall be deposited into the Medical Quality Assurance ~~Professional Regulation~~ Trust Fund. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter. The department shall prepare and submit a proposed budget in accordance with law.

Reviser's note.—Amended to conform to the transfer of the regulation of health care professionals from the Department of Business and Professional Regulation to the Department of Health. The Medical Quality Assurance Trust Fund in s. 20.435(1)(d) provides administrative support for the regulation.

Section 121. Paragraph (t) of subsection (1) of section 462.14, Florida Statutes, is amended to read:

462.14 Grounds for disciplinary action; action by the department.—

(1) The following acts constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of s. 766.102 ~~768.45~~ when enforcing this paragraph.

Reviser's note.—Amended to conform to the redesignation of s. 768.45 as s. 766.102 by the reviser incident to compiling the 1988 Supplement to the Florida Statutes 1987.

Section 122. Section 466.014, Florida Statutes, is amended to read:

466.014 Continuing education; dental hygienists.—In addition to the other requirements for relicensure for dental hygienists set out in this act, the board shall require each licensed dental hygienist to complete not less than 24 hours or more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board shall be programs of learning which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall adopt rules and guidelines to administer and enforce the provisions of this section. In applying for license renewal, the dental hygienist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in her or his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this section. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause. Compliance with the continuing education requirements shall be mandatory for issuance of the renewal certificate. The board shall have the authority to excuse licensees, as a group or as individuals, from the continuing educational requirements, or any part thereof, in the event an unusual circumstance, emergency, or hardship has prevented compliance with this section ~~subsection~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 466.014 is not divided into subsections.

Section 123. Section 467.0135, Florida Statutes, is amended to read:

467.0135 Fees.—The department shall establish fees for application, examination, initial licensure, renewal of licensure, licensure by endorsement, inactive status, delinquent status, and reactivation of an inactive license. The appropriate fee must be paid at the time of application and is payable to the Department of Health, in accordance with rules adopted by the department. A fee is nonrefundable, unless otherwise provided by rule. A fee may not exceed:

(1) Five hundred dollars for examination.

(2) Five hundred dollars for initial licensure.

(3) Five hundred dollars for renewal of licensure.

(4) Two hundred dollars for application, which fee is nonrefundable.

(5) Five hundred dollars for reactivation of an inactive license.

(6) Five hundred dollars for licensure by endorsement.

A fee for inactive status, reactivation of an inactive license, or delinquency may not exceed the fee established by the department for biennial renewal of an active license. All fees collected under this section shall be deposited in the Medical Quality Assurance ~~Professional Regulation~~ Trust Fund.

Reviser's note.—Amended to conform to the transfer of the regulation of health care professionals from the Department of Business and Professional Regulation to the Department of Health. The Medical Quality Assurance Trust Fund in s. 20.435(1)(d) provides administrative support for the regulation.

Section 124. Subsection (5) of section 468.1655, Florida Statutes, is amended to read:

468.1655 Definitions.—As used in this part:

(5) "Nursing home" means an institution or facility licensed as such under part II ~~I~~ of chapter 400.

Reviser's note.—Amended to conform to the redesignation of part I of chapter 400 as part II necessitated by the creation of a new part I incident to the compilation of ss. 1-16, ch. 93-177, Laws of Florida.

Section 125. Subsection (4) of section 468.1695, Florida Statutes, is repealed, and subsection (2) of that section is amended to read:

468.1695 Licensure by examination.—

(2) ~~Beginning October 1, 1992,~~ The department shall examine each applicant who the board certifies has completed the application form and remitted an examination fee set by the board not to exceed $250 and who:

(a)1. Holds a baccalaureate degree from an accredited college or university and majored in health care administration or has credit for at least 60 semester hours in subjects, as prescribed by rule of the board, which prepare the applicant for total management of a nursing home; and

2. Has fulfilled the requirements of a college-affiliated or university-affiliated internship in nursing home administration or of a 1,000-hour nursing home administrator-in-training program prescribed by the board; or

(b)1. Holds a baccalaureate degree from an accredited college or university; and

2.a. Has fulfilled the requirements of a 2,000-hour nursing home administrator-in-training program prescribed by the board; or

b. Has 1 year of management experience allowing for the application of executive duties and skills, including the staffing, budgeting, and directing of resident care, dietary, and bookkeeping departments within a skilled nursing facility, hospital, hospice, assisted living facility with a minimum of 60 licensed beds, or geriatric residential treatment program and, if such experience is not in a skilled nursing facility, has fulfilled the requirements of a 1,000-hour nursing home administrator-in-training program prescribed by the board.

Reviser's note.—Subsection (2) is amended to delete language that has served its purpose. Subsection (4) is repealed to delete language that is obsolete; persons exempted from qualifications specified in current subsection (2) have already been grandfathered in as nursing home administrators.

Section 126. Paragraph (a) of subsection (2) of section 468.307, Florida Statutes, is amended to read:

468.307 Certificate; issuance; possession; display.—

(2)(a) The department may, at its discretion, issue a temporary certificate to:

1. An applicant who has completed an educational program and is awaiting examination for a certificate specified in s. 468.302(2)(b), (c), (e), or (f), if the applicant has met all other requirements established pursuant to s. 468.304.

2. A basic X-ray machine operator, if such person is under the direct supervision of a licensed practitioner and the licensed practitioner has not requested issuance of a temporary certificate within the previous 18 months, upon application by a licensed practitioner who is practicing in an office of five or ~~of~~ fewer licensed practitioners.

3. A basic X-ray machine operator-podiatric medicine, if such person is under the direct supervision of a licensed podiatric physician and the licensed podiatric physician has not requested issuance of a temporary certificate within the previous 18 months, upon application by a licensed podiatric

physician who is practicing in an office of five or fewer licensed podiatric physicians.

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

Section 127. Paragraph (l) of subsection (1) of section 468.505, Florida Statutes, is amended to read:

468.505 Exemptions; exceptions.—

(1) Nothing in this part may be construed as prohibiting or restricting the practice, services, or activities of:

(l) A person employed by a nursing facility exempt from licensing under s. 395.002(13) ~~395.002(14)~~, or a person exempt from licensing under s. 464.022.

Reviser's note.—Amended to conform to the redesignation of s. 395.002(14) as s. 395.002(13) by the reviser incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 128. Paragraph (c) of subsection (2) of section 468.605, Florida Statutes, is amended to read:

468.605 Florida Building Code Administrators and Inspectors Board.—

(2) The board shall consist of nine members, as follows:

(c) Two members serving as inspectors ~~inspector~~.

None of the board members described in paragraph (a) or paragraph (f) may be an employee of a municipal, county, or state governmental agency.

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

Section 129. Subsection (1) of section 468.828, Florida Statutes, is amended to read:

468.828 Background screening information; rulemaking authority.—

(1) The Agency for Health Care Administration shall allow the department to electronically access its background screening database and records, and the Department of Children and Family Services ~~Families~~ shall allow the department to electronically access its central abuse registry and tracking system under chapter 415.

Reviser's note.—Amended to conform to the official title of the department pursuant to s. 20.19.

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.