

Committee Substitute for  
Committee Substitute for Senate Bill No. 1334

An act relating to electronic commerce; providing a short title; providing definitions; providing scope; providing for prospective application; providing for use of electronic records and signatures; providing for variation by agreement among parties using electronic records and electronic signatures; providing construction and application; providing for uniformity; providing for legal recognition of electronic records, signatures, and contracts; providing for provision of information in writing; providing for presentation of records; providing for attribution and effect of electronic records and electronic signatures; providing for the effect of changes or errors in electronic records; providing for notarization and acknowledgment; providing for retention of electronic records and originals; providing for admissibility of electronic records as evidence; providing for rules applying to automated transactions; providing for time and place of sending and receiving electronic records and signatures; providing for transferable records; providing for creation and retention of electronic records by governmental agencies; providing for conversion of written records by governmental agencies; providing for acceptance and distribution of electronic records by governmental agencies; providing for interoperability; providing severability; requiring the county recorders to provide a statewide index of official records available on the Internet by a time certain; providing for security; requiring that the Internet information shall not be admissible in court; authorizing charging a reasonable fee for certain purposes; providing that the official records must be made available for electronic retrieval on the statewide site by a time certain; amending ss. 282.005, 282.101, 282.102, 282.103, 282.104, 282.105, 282.106, 282.107, 282.1095, 282.111, 282.20, 282.21, 282.22, 282.303, 282.3031, 282.3032, 282.3041, 282.3055, 282.3063, F.S.; providing legislative findings and creating the State Technology Office within the Department of Management Services; providing for the Chief Information Officer to be in charge of the office; requiring the office to provide support and guidance to all state agencies in order to enhance the state's use and management of information technology resources; providing for a study and recommendations concerning online voting; providing for enterprise resource planning and management by each state agency in consultation with the office; creating s. 282.3095, F.S.; directing the State Technology Office to create a Task Force on Privacy and Technology; providing for the task force to hold meetings and report to the Legislature and Governor; amending ss. 282.310, 282.315, 282.318, 282.404, F.S.; directing the State Technology Office to prepare and disseminate the State Annual Report on Enterprise Resource Planning and Management; transferring the Florida Geographic Information Board and the Florida Geographic Information Advisory Council from the Executive Office of the Governor to the State Technology Office; amending

ss. 119.07, 287.073, F.S.; conforming statutory cross-references; repealing s. 282.3091, F.S., relating to the State Technology Council; repealing s. 282.3093, F.S., relating to the State Technology Office; amending s. 215.322, F.S.; revising legislative intent; specifying circumstances under which governmental agencies or the judicial branch may accept credit cards, charge cards, or debit cards; prescribing duties of the State Technology Office; removing a limitation on convenience fees; amending s. 287.012, F.S.; revising certain definitions to include bids or proposals transmitted or received by electronic means; amending s. 287.042, F.S.; requiring the Department of Management Services to consult with the State Technology Office on joint agreements involving the purchase of information technology resources; amending s. 287.057, F.S., requiring the office to develop a program for on-line procurement of commodities and contractual services; providing a limitation; authorizing the office to contract for certain equipment and services; authorizing the office to adopt rules for certain purposes; requiring Enterprise Florida, Inc., to create and implement a marketing and image campaign; providing purposes of the campaign; requiring development and maintenance of a website for information and technology industry marketing and workforce recruitment; expressing support of activities to enhance information technology, including a network access point; amending s. 212.08, F.S.; providing a sales tax exemption on sales of certain equipment used to deploy broadband technologies associated with a network access point; providing for future repeal of the exemption; providing an appropriation; amending s. 556.108, F.S.; providing for excavation performed on behalf of a residential owner; amending s. 350.031, F.S.; providing for the Florida Public Service Commission Nominating Council members appointed by the Speaker of the House of Representatives and the President of the Senate to serve at the pleasure of the Speaker of the House and the President of the Senate; limiting the number of full terms to which a member may be appointed; providing for application; providing severability; providing an effective date.

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

Section 1. (1) SHORT TITLE.—This section may be cited as the “Uniform Electronic Transaction Act.”

(2) DEFINITIONS.—As used in this section:

(a) “Agreement” means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under provisions of law otherwise applicable to a particular transaction.

(b) “Automated transaction” means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(c) “Computer program” means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(d) “Contract” means the total legal obligation resulting from the parties’ agreement as affected by this act and other applicable provisions of law.

(e) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(g) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

(h) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(i) “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of this state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(j) “Information” means data, text, images, sounds, codes, computer programs, software, databases, or other similar representations of knowledge.

(k) “Information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(l) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(m) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. 119.011(1), Florida Statutes.

(n) “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(o) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(p) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.

(3) SCOPE.—

(a) Except as otherwise provided in paragraph (b), this section applies to electronic records and electronic signatures relating to a transaction.

(b) This section does not apply to a transaction to the extent the transaction is governed by:

1. A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;

2. The Uniform Commercial Code other than ss. 671.107 and 671.206, Florida Statutes, and chapters 672 and 680, Florida Statutes;

3. The Uniform Computer Information Transactions Act; or

4. Rules relating to judicial procedure.

(c) This section applies to an electronic record or electronic signature otherwise excluded under paragraph (b) to the extent such record or signature is governed by a provision of law other than those specified in paragraph (b).

(d) A transaction subject to this section is also subject to other applicable provisions of substantive law.

(4) PROSPECTIVE APPLICATION.—This section applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2000.

(5) USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.—

(a) This section does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This section applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this paragraph may not be waived by agreement.

(d) Except as otherwise provided in this section, the effect of any provision of this section may be varied by agreement. The presence in certain provisions of this section of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this section and other applicable provisions of law.

(6) CONSTRUCTION AND APPLICATION.—This section shall be construed and applied to:

(a) Facilitate electronic transactions consistent with other applicable provisions of law.

(b) Be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

(c) Effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting similar legislation.

(7) LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.—

(a) A record or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in the formation of the contract.

(c) If a provision of law requires a record to be in writing, an electronic record satisfies such provision.

(d) If a provision of law requires a signature, an electronic signature satisfies such provision.

(8) PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.—

(a) If parties have agreed to conduct a transaction by electronic means and a provision of law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or the sender's information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a provision of law other than this section requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

1. The record must be posted or displayed in the manner specified in the other provision of law.

2. Except as otherwise provided in subparagraph (d)2., the record must be sent, communicated, or transmitted by the method specified in the other provision of law.

3. The record must contain the information formatted in the manner specified in the other provision of law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, provided:

1. To the extent a provision of law other than this section requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under paragraph (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement.

2. A requirement under a law other than this section to send, communicate, or transmit a record by first-class mail, postage prepaid, or other regular United States mail, may be varied by agreement to the extent permitted by the other provision of law.

#### (9) ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.—

(a) An electronic record or electronic signature is attributable to a person if the record or signature was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under paragraph (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

(10) EFFECT OF CHANGE OR ERROR.—If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or

correction of the error and, at the time the individual learns of the error, the individual:

1. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.

2. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

3. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(c) If paragraphs (a) and (b) do not apply, the change or error has the effect provided by the other provision of law, including the law of mistake, and the parties' contract, if any.

(d) Paragraphs (b) and (c) may not be varied by agreement.

#### (11) NOTARIZATION AND ACKNOWLEDGMENT.—

(a) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized by applicable law to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. Neither a rubber stamp nor an impression type seal is required for an electronic notarization.

(b) A first-time applicant for a notary commission must submit proof that the applicant has, within 1 year prior to the application, completed at least 3 hours of interactive or classroom instruction, including electronic notarization, and covering the duties of the notary public. Courses satisfying this section may be offered by any public or private sector person or entity registered with the Executive Office of the Governor and must include a core curriculum approved by that office.

#### (12) RETENTION OF ELECTRONIC RECORDS; ORIGINALS.—

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after the record was first generated in final form as an electronic record or otherwise.

2. Remains accessible for later reference.

(b) A requirement to retain a record in accordance with paragraph (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy paragraph (a) by using the services of another person if the requirements of paragraph (a) are satisfied.

(d) If a provision of law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with paragraph (a).

(e) If a provision of law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (a).

(f) A record retained as an electronic record in accordance with paragraph (a) satisfies a provision of law requiring a person to retain a record for evidentiary, audit, or similar purposes, unless a provision of law enacted after July 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

(13) ADMISSIBILITY IN EVIDENCE.—In a proceeding, evidence of a record or signature may not be excluded solely because the record or signature is in electronic form.

(14) AUTOMATED TRANSACTIONS.—In an automated transaction, the following rules apply:

(a) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(b) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of the contract are determined by the substantive law applicable to the contract.

(15) TIME AND PLACE OF SENDING AND RECEIVING.—

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the record:

1. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

2. Is in a form capable of being processed by that system.

3. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender

or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when the record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and is in a form capable of being processed by that system.

(c) Paragraph (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under paragraph (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this paragraph, the following rules apply:

1. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

2. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under paragraph (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in paragraph (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under paragraph (a), or purportedly received under paragraph (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable provisions of law. Except to the extent permitted by the other provisions of law, the requirements of this paragraph may not be varied by agreement.

(h) An automated transaction does not establish the acceptability of an electronic record for recording purposes.

#### (16) TRANSFERABLE RECORDS.—

(a) For purposes of this paragraph, "transferable record" means an electronic record that:

1. Would be a note under chapter 673, Florida Statutes, or a document under chapter 677, Florida Statutes, if the electronic record were in writing.

2. The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies paragraph (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

1. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subparagraphs 4., 5., and 6., unalterable.

2. The authoritative copy identifies the person asserting control as the person to which the transferable record was issued or, if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.

3. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian.

4. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.

5. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.

6. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. 671.201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under s. 673.3021, s. 677.501, or s. 679.308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this paragraph.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(17) CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.—Each governmental agency shall determine whether, and the extent to which, such agency will create and retain electronic records and convert written records to electronic records.

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.—

(a) Except as otherwise provided in paragraph (12)(f), each governmental agency shall determine whether, and the extent to which, such agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the state technology office, in consultation with the governmental agency, giving due consideration to security, may specify:

1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in paragraph (12)(f), this section does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

(d) Service charges and fees otherwise established by law applicable to the filing of nonelectronic records shall apply in kind to the filing of electronic records.

(19) INTEROPERABILITY.—The governmental agency which adopts standards pursuant to subsection (18) may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the Federal Government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

(20) SEVERABILITY.—If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 2. (1) The Legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet and hereby determines that the provisions of this section fulfill and further an important state interest.

(2) No later than January 1, 2002, the county recorder in each county shall provide a current index of documents recorded in the official records of the county for the period beginning no later than January 1, 1990, on a publicly available Internet website which shall also contain a document requisition point for obtaining images or copies of the documents reflected in the index and which has the capability of electronically providing the index data to a central statewide search site.

(3) Each county recorder shall use appropriate Internet security measures to ensure that no person has the ability to alter or to modify any public record.

(4) Unless otherwise provided by law, no information retrieved electronically pursuant to this section shall be admissible in court as an authenticated document.

(5) By January 1, 2006, each county recorder shall provide for electronic retrieval, at a minimum, of images of documents referenced as the index required to be maintained on the county's official records website by this section.

Section 3. Section 282.005, Florida Statutes, is amended to read:

282.005 Legislative findings and intent.—The Legislature finds that:

(1) Information is a strategic asset of the state, and, as such, it should be managed as a valuable state resource.

(2) The state makes significant investments in information technology resources in order to manage information and to provide services to its citizens.

(3) An office must be created to provide support and guidance to enhance the state's use and management of information technology resources and to design, procure, and deploy, on behalf of the state, information technology resources.

(4) The cost-effective deployment of technology and information resources by state agencies can best be managed by a Chief Information Officer.

(5)(3) The head of each state agency, in consultation with the State Technology Office, has primary responsibility and accountability for the plan-

ning, budgeting, acquisition, development, implementation, use, and management of information technology resources within the agency.

(6)(4) The expanding need for, use of, and dependence on information technology resources requires focused management attention and managerial accountability by state agencies and the state as a whole.

(7)(5) The agency head, in consultation with the State Technology Office, has primary responsibility for the agency's information technology resources and for their use in accomplishing the agency's mission. However, each agency shall also use its information technology resources in the best interests of the state as a whole and thus contribute to and make use of shared data and related resources whenever appropriate.

(8)(6) The state shall provide, by whatever means is most cost-effective and efficient, the information resources management infrastructure needed to collect, store, and process the state's data and information, provide connectivity, and facilitate the exchange of data and information among both public and private parties.

(9)(7) A necessary part of the state's information resources management infrastructure is a statewide communications system for all types of signals, including voice, data, video, radio, and image.

(10)(8) To ensure the best management of the state's information technology resources, and notwithstanding other provisions of law to the contrary, the functions of information resources management are hereby assigned to the Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida Community College System; to the Supreme Court, for the judicial branch; ~~and to each state attorney and public defender; and to the State Technology Office for the executive branch of state government.~~

(11) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision or control of the personnel or data-processing equipment that the Comptroller deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(d) and 4(e) of Art. IV of the State Constitution.

(12) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision and control of the personnel or data-processing equipment which the Attorney General deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(c) of Art. IV of the State Constitution.

Section 4. Section 282.101, Florida Statutes, is amended to read:

282.101 Construction of terms, "information technology" ~~"communications"~~ or "information technology communications system."—Any reference in this part to "information technology" ~~"communications"~~ or "information

technology “communications system” means any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by all agencies and political subdivisions of state government, and a full-service, information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

Section 5. Section 282.102, Florida Statutes, is amended to read:

282.102 Powers and duties of the State Technology Office of the Department of Management Services.—There is created a State Technology Office, administratively placed within the Department of Management Services, which shall be headed by a Chief Information Officer who is appointed by the Governor and is in the Senior Management Service. The office shall have the following powers, duties, and functions:

(1) To publish electronically the portfolio of services available from the office department, including pricing information; the policies and procedures of the office department governing usage of available services; and a forecast of the priorities and initiatives for the state communications system for the ensuing 2 years. The office department shall provide a hard copy of its portfolio of services upon request.

(2) To coordinate the purchase, lease, and use of all information technology communications services for state agencies government, including communications services provided as part of any other total system to be used by the state or any of its agencies.

(3) To advise and render aid to state agencies and political subdivisions of the state as to systems or methods to be used for organizing and meeting information technology communications requirements efficiently and effectively.

(4) To integrate consolidate the information technology communications systems and services of state agencies and to provide for their joint use by the agencies when determined by the department to be economically efficient or performance-effective.

(5) To adopt technical standards for the state information technology communications system which will assure the interconnection of computer networks and information systems of state agencies.

(6) To assume management responsibility for any integrated information technology consolidated communications system or service when determined by the office department to be economically efficient or performance-effective.

(7) To enter into agreements for the support and use of the information technology communications services of state agencies and of political subdivisions of the state.

(8) To use or acquire, with agency concurrence, information technology communications facilities now owned or operated by any state agency.

(9) To standardize policies and procedures for the use of such services.

(10) To purchase from or contract with information technology providers ~~suppliers and communications companies~~ for information technology communications facilities or services, including private line services.

(11) To apply for, receive, and hold, or assist agencies in applying for, receiving, or holding, such authorizations, licenses, and allocations or channels and frequencies to carry out the purposes of ss. 282.101-282.109.

(12) To acquire real estate, equipment, and other property.

(13) To cooperate with any federal, state, or local emergency management agency in providing for emergency communications services.

(14) To delegate to state agencies the powers of acquisition and utilization of information technology communications equipment, facilities, and services or to control and approve the purchase, lease, and use of all information technology communications equipment, services, and facilities, including communications services provided as part of any other total system to be used by the state or any of its agencies. ~~This subsection does not apply to the data processing hardware of an agency as defined in this part.~~

(15) To take ownership, custody, and control of existing communications equipment and facilities, with agency concurrence, including all right, title, interest, and equity therein, to carry out the purposes of ss. 282.101-282.109. However, the provisions of this subsection shall in no way affect the rights, title, interest, or equity in any such equipment or facilities owned by, or leased to, the state or any state agency by any telecommunications company.

(16) To adopt ~~prescribe~~ rules pursuant to ss. 120.54 and 120.536(1) relating to information technology and to administer the provisions of this part ~~and regulations for the use of the state communications system.~~

(17) To provide a means whereby political subdivisions of the state may use the state information technology communications system upon such terms and under such conditions as the office department may establish.

(18) To apply for and accept federal funds for any of the purposes of ss. 282.101-282.109 as well as gifts and donations from individuals, foundations, and private organizations.

(19) To monitor issues relating to communications facilities and services before the Florida Public Service Commission and, when necessary, prepare position papers, prepare testimony, appear as a witness, and retain witnesses on behalf of state agencies in proceedings before the commission.

(20) Unless delegated to the agencies by the Chief Information Officer, to manage and control, but not intercept or interpret, communications within the SUNCOM Network by:

(a) Establishing technical standards to physically interface with the SUNCOM Network.

(b) Specifying how communications are transmitted within the SUNCOM Network.

(c) Controlling the routing of communications within the SUNCOM Network.

(d) Establishing standards, policies, and procedures for access to the SUNCOM Network.

(e) Ensuring orderly and reliable communications services in accordance with the standards and policies of all state agencies and the service agreements executed with state agencies.

(21) To plan, design, and conduct experiments for information technology in communications services, equipment, and technologies, and to implement enhancements in the state information technology communications system when in the public interest justified and cost-effective. Funding for such experiments shall be derived from SUNCOM Network service revenues and shall not exceed 24 percent of the annual budget for the SUNCOM Network for any fiscal year or as provided in the General Appropriations Act for fiscal year 2000-2001. New services offered as a result of this subsection shall not affect existing rates for facilities or services.

(22) To enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, and non-discriminatory basis, property and other structures under office department control for the placement of new facilities by any wireless provider of mobile service as defined in 47 U.S.C. s. 153(n) or s. 332(d) and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or other structures available. The office department may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for the placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The office department and a wireless provider or telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the office department by the wireless provider or telecommunications company. All such fees collected by the office department shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund, and may be used by the office department to construct, maintain, or support the system.

(23) To provide an integrated electronic system for deploying government products, services, and information to individuals and businesses.

(a) The integrated electronic system shall reflect cost-effective deployment strategies in keeping with industry standards and practices, including protections of security of private information as well as maintenance of public records.

(b) The office shall provide a method for assessing fiscal accountability for the integrated electronic system and shall establish the organizational structure required to implement this system.

(24) To provide administrative support to the Chief Information Officers' Council and other workgroups created by the Chief Information Officer.

(25) To facilitate state information technology education and training for senior management and other agency staff.

(26) To prepare, on behalf of the Executive Office of the Governor, memoranda on recommended guidelines and best practices for information resources management, when requested.

(27) To prepare, publish, and disseminate the State Annual Report on Enterprise Resource Planning and Management under s. 282.310.

(28) To study and make a recommendation to the Governor and Legislature on the feasibility of implementing online voting in this state.

(29) To facilitate the development of a network access point in this state, as needed.

Section 6. Section 282.103, Florida Statutes, is amended to read:

282.103 SUNCOM Network; exemptions from the required use.—

(1) There is created within the State Technology Office of the Department of Management Services the SUNCOM Network which shall be developed to serve as the state communications system for providing local and long-distance communications services to state agencies, political subdivisions of the state, municipalities, and nonprofit corporations pursuant to ss. 282.101-282.111. The SUNCOM Network shall be developed to transmit all types of communications signals, including, but not limited to, voice, data, video, image, and radio. State agencies shall cooperate and assist in the development and joint use of communications systems and services.

(2) The State Technology Office of the Department of Management Services shall design, engineer, implement, manage, and operate through state ownership, commercial leasing, or some combination thereof, the facilities and equipment providing SUNCOM Network services, and shall develop a system of equitable billings and charges for communication services.

(3) All state agencies are required to use the SUNCOM Network for agency communications services as the services become available; however, no agency is relieved of responsibility for maintaining communications services necessary for effective management of its programs and functions. If a SUNCOM Network service does not meet the communications requirements of an agency, the agency shall notify the State Technology Office of the Department of Management Services in writing and detail the requirements for that communications service. If the ~~office department~~ is unable, ~~within 90 days~~, to meet an agency's requirements by enhancing SUNCOM Network service, the ~~office department~~ shall grant the agency an exemption from the required use of specified SUNCOM Network services.

Section 7. Section 282.104, Florida Statutes, is amended to read:

282.104 Use of state SUNCOM Network by municipalities.—Any municipality may request the State Technology Office of the Department of Management Services to provide any or all of the SUNCOM Network's portfolio of communications services upon such terms and under such conditions as the department may establish. The requesting municipality shall pay its share of installation and recurring costs according to the published rates for SUNCOM Network services and as invoiced by the office department. Such municipality shall also pay for any requested modifications to existing SUNCOM Network services, if any charges apply.

Section 8. Section 282.105, Florida Statutes, is amended to read:

282.105 Use of state SUNCOM Network by nonprofit corporations.—

(1) The State Technology Office of the Department of Management Services shall provide a means whereby private nonprofit corporations under contract with state agencies or political subdivisions of the state may use the state SUNCOM Network, subject to the limitations in this section. In order to qualify to use the state SUNCOM Network, a nonprofit corporation shall:

(a) Expend the majority of its total direct revenues for the provision of contractual services to the state, a municipality, or a political subdivision of the state; and

(b) Receive only a small portion of its total revenues from any source other than a state agency, a municipality, or a political subdivision of the state during the period of time SUNCOM Network services are requested.

(2) Each nonprofit corporation seeking authorization to use the state SUNCOM Network pursuant to this section shall provide to the office department, upon request, proof of compliance with subsection (1).

(3) Nonprofit corporations established pursuant to general law and an association of municipal governments which is wholly owned by the municipalities shall be eligible to use the state SUNCOM Network, subject to the terms and conditions of the office department.

(4) Institutions qualified pursuant to s. 240.605 shall be eligible to use the state SUNCOM Network, subject to the terms and conditions of the office department. Such entities shall not be required to satisfy the other criteria of this section.

(5) Private, nonprofit elementary and secondary schools shall be eligible for rates and services on the same basis as public schools, providing these nonpublic schools do not have an endowment in excess of \$50 million.

Section 9. Section 282.106, Florida Statutes, is amended to read:

282.106 Use of SUNCOM Network by libraries.—The State Technology Office of the Department of Management Services may provide SUNCOM Network services to any library in the state, including libraries in public schools, community colleges, the State University System, and nonprofit private postsecondary educational institutions, and libraries owned and operated by municipalities and political subdivisions.

Section 10. Subsections (1) and (2) of section 282.107, Florida Statutes, are amended to read:

282.107 SUNCOM Network; criteria for usage.—

(1) The State Technology Office ~~division~~ shall periodically review the qualifications of subscribers using the state SUNCOM Network and shall terminate services provided to any facility not qualified pursuant to ss. 282.101-282.111 or rules adopted hereunder. In the event of nonpayment of invoices by subscribers whose SUNCOM Network invoices are paid from sources other than legislative appropriations, such nonpayment represents good and sufficient reason to terminate service.

(2) The State Technology Office ~~division~~ shall adopt rules setting forth its procedures for withdrawing and restoring authorization to use the state SUNCOM Network. Such rules shall provide a minimum of 30 days' notice to affected parties prior to termination of voice communications service.

Section 11. Section 282.1095, Florida Statutes, is amended to read:

282.1095 State agency law enforcement radio system.—

(1) The State Technology Office of the Department of Management Services may acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through a mutual aid channel. The Joint Task Force on State Agency Law Enforcement Communications is established in the State Technology Office of the Department of Management Services to advise the office ~~department~~ of member-agency needs for the planning, designing, and establishment of the joint system. The State Agency Law Enforcement Radio System Trust Fund is established in the State Technology Office of the Department of Management Services. The trust fund shall be funded from surcharges collected under ss. 320.0802 and 328.72.

(2)(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of eight members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Fish and Wildlife Conservation Commission who shall be appointed by the executive director of the commission.

5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.

6. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

7. A representative of the Division of State Fire Marshal of the Department of Insurance who shall be appointed by the State Fire Marshal.

8. A representative of the Department of Transportation who shall be appointed by the secretary of the department.

(b) Each appointed member of the joint task force shall serve at the pleasure of the appointing official. Any vacancy on the joint task force shall be filled in the same manner as the original appointment.

(c) The joint task force shall elect a chair from among its members to serve a 1-year term. A vacancy in the chair of the joint task force must be filled for the remainder of the unexpired term by an election of the joint task force members.

(d) The joint task force shall meet as necessary, but at least quarterly, at the call of the chair and at the time and place designated by him or her.

(e) The per diem and travel expenses incurred by a member of the joint task force in attending its meetings and in attending to its affairs shall be paid pursuant to s. 112.061, from funds budgeted to the state agency that the member represents.

(f) The State Technology Office of the Department of Management Services is hereby authorized to rent or lease space on any tower under its control. The office department may also rent, lease, or sublease ground space as necessary to locate equipment to support antennae on the towers. The costs for use of such space shall be established by the office department for each site, when it is determined to be practicable and feasible to make space available. The office department may refuse to lease space on any tower at any site. All moneys collected by the office department for such rents, leases, and subleases shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used by the office department to construct, maintain, or support the system.

(g) The State Technology Office of the Department of Management Services is hereby authorized to rent, lease, or sublease ground space on lands acquired by the office department for the construction of privately owned or publicly owned towers. The office department may, as a part of such rental, lease, or sublease agreement, require space on said tower or towers for antennae as may be necessary for the construction and operation of the state agency law enforcement radio system or any other state need. The positions necessary for the office department to accomplish its duties under this paragraph and paragraph (f) shall be established in the General Appropriations Act and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.

(3) Upon appropriation, moneys in the trust fund may be used by the office department to acquire by competitive procurement the equipment; software; and engineering, administrative, and maintenance services it

needs to construct, operate, and maintain the statewide radio system. Moneys in the trust fund collected as a result of the surcharges set forth in ss. 320.0802 and 328.72 shall be used to help fund the costs of the system. Upon completion of the system, moneys in the trust fund may also be used by the office department to provide for payment of the recurring maintenance costs of the system. Moneys in the trust fund may be appropriated to maintain and enhance, over and above existing agency budgets, existing radio equipment systems of the state agencies represented by the task force members, in an amount not to exceed 10 percent per year per agency, of the existing radio equipment inventory until the existing radio equipment can be replaced pursuant to implementation of the statewide radio communications system.

(4)(a) The joint task force, shall establish policies, procedures, and standards which shall be incorporated into a comprehensive management plan for the use and operation of the statewide radio communications system.

(b) The joint task force shall have the authority to permit other state agencies to use the communications system, under terms and conditions established by the joint task force.

(5)(a) The State Technology Office of the Department of Management Services shall provide technical support to the joint task force and shall bear the overall responsibility for the design, engineering, acquisition, and implementation of the statewide radio communications system and for ensuring the proper operation and maintenance of all system common equipment.

(b) The positions necessary for the office department to accomplish its duties under this section shall be established through the budgetary process and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.

Section 12. Section 282.111, Florida Statutes, is amended to read:

282.111 Statewide system of regional law enforcement communications.—

(1) It is the intent and purpose of the Legislature that a statewide system of regional law enforcement communications be developed whereby maximum efficiency in the use of existing radio channels is achieved in order to deal more effectively with the apprehension of criminals and the prevention of crime generally. To this end, all law enforcement agencies within the state are directed to provide the State Technology Office of the Department of Management Services with any information the office department requests for the purpose of implementing the provisions of subsection (2).

(2) The State Technology Office of the Department of Management Services is hereby authorized and directed to develop and maintain a statewide system of regional law enforcement communications. In formulating such a system, the office department shall divide the state into appropriate regions and shall develop a program which shall include, but not be limited to, the following provisions:

(a) The communications requirements for each county and municipality comprising the region.

(b) An interagency communications provision which shall depict the communication interfaces between municipal, county, and state law enforcement entities which operate within the region.

(c) Frequency allocation and use provision which shall include, on an entity basis, each assigned and planned radio channel and the type of operation, simplex, duplex, or half-duplex, on each channel.

(3) The office department shall adopt any necessary rules and regulations for implementing and coordinating the statewide system of regional law enforcement communications.

(4) The Chief Information Officer of the State Technology Office Secretary of Management Services or his or her designee is designated as the director of the statewide system of regional law enforcement communications and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with other interested state agencies and local law enforcement agencies.

(5) No law enforcement communications system shall be established or present system expanded without the prior approval of the State Technology Office of the Department of Management Services.

(6) Within the limits of its capability, the Department of Law Enforcement is encouraged to lend assistance to the State Technology Office of the Department of Management Services in the development of the statewide system of regional law enforcement communications proposed by this section.

Section 13. Section 282.20, Florida Statutes, is amended to read:

282.20 Technology Resource Center.—

(1)(a) The State Technology Office ~~Division of Information Services~~ of the Department of Management Services shall operate and manage the Technology Resource Center.

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

1. “Office” ~~“Department”~~ means the State Technology Office of the Department of Management Services.

2. ~~“Division” means the Division of Information Services of the Department of Management Services.~~

2.3. “Information-system utility” means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

3.4. “Customer” means a state agency or other entity which is authorized to utilize the SUNCOM Network pursuant to this part.

(2) The ~~division and the~~ Technology Resource Center shall:

(a) Serve the office ~~department~~ and other customers as an information-system utility.

(b) Cooperate with ~~the Information Resource Commission and with other~~ customers to offer, develop, and support a wide range of services and applications needed by users of the Technology Resource Center.

(c) Cooperate with the Florida Legal Resource Center of the Department of Legal Affairs and other state agencies to develop and provide access to repositories of legal information throughout the state.

(d) Cooperate with the office ~~Division of Communications of the department~~ to facilitate interdepartmental networking and integration of network services for its customers.

(e) Assist customers in testing and evaluating new and emerging technologies that could be used to meet the needs of the state.

(3) The office ~~division~~ may contract with customers to provide any combination of services necessary for agencies to fulfill their responsibilities and to serve their users.

(4) Acceptance of any new customer other than a state agency which is expected to pay during the initial 12 months of use more than 5 percent of the previous year's revenues of the Technology Resource Center shall be contingent upon approval of the Office of Planning and Budgeting in a manner similar to the budget amendment process in s. 216.181.

(5) The Technology Resource Center may plan, design, establish pilot projects for, and conduct experiments with information technology resources, and may implement enhancements in services when such implementation is cost-effective. Funding for experiments and pilot projects shall be derived from service revenues and may not exceed 5 percent of the service revenues for the Technology Resource Center for any single fiscal year. Any experiment, pilot project, plan, or design must be approved by the Chief Information Officer of the State Technology Office ~~data processing policy board of the center~~.

(6) Notwithstanding the provisions of s. 216.272, the Technology Resource Center may spend the funds in the reserve account of its working capital trust fund for enhancements to center operations or for information technology resources. Any expenditure of reserve account funds must be approved by the Chief Information Officer of the State Technology Office ~~data processing policy board of the center~~. Any funds remaining in the reserve account at the end of the fiscal year may be carried forward and spent as approved by the Chief Information Officer of the State Technology Office, provided that such approval conforms to any applicable provisions of chapter 216 ~~policy board~~.

Section 14. Section 282.21, Florida Statutes, is amended to read:

282.21 The State Technology Office of the Department of Management Services' electronic access services.—The State Technology Office of the Department of Management Services may collect fees for providing remote electronic access pursuant to s. 119.085. The fees may be imposed on individual transactions or as a fixed subscription for a designated period of time. All fees collected under this section shall be deposited in the appropriate trust fund of the program or activity that made the remote electronic access available.

Section 15. Section 282.22, Florida Statutes, is amended to read:

282.22 The State Technology Office of the Department of Management Services production and dissemination of materials and products.—

(1) It is the intent of the Legislature that when materials, ~~and products, information, and services~~ are collected or developed by or under the direction of the State Technology Office of the Department of Management Services, through research and development or other efforts, including those subject to copyright, patent, or trademark, they shall be made available for use by state and local government entities at the earliest practicable date and in the most economical and efficient manner possible and consistent with chapter 119.

(2) To accomplish this objective the ~~office department~~ is authorized to ~~publish or partner with private sector entities to~~, produce, or have produced materials and products and to make them readily available for appropriate use. The ~~office department~~ is authorized to charge an amount or ~~receive value-added services~~ adequate to cover the essential cost of producing and disseminating such materials, information, services, or ~~and~~ products and is authorized to sell services, when appropriate, copies for use to any entity who is authorized to use ~~utilize~~ the SUNCOM Network pursuant to this part and to the public.

(3) In cases in which the materials or products are of such nature, or the circumstances are such, that it is not practicable or feasible for the ~~office department~~ to produce or have produced materials and products so developed, it is authorized, after review and approval by the Executive Office of the Governor Department of State, to license, lease, assign, sell, or otherwise give written consent to any person, firm, or corporation for the manufacture or use thereof, on a royalty basis, or for such other consideration as the ~~office department~~ shall deem proper and in the best interest of the state; the ~~office department~~ is authorized and directed to protect same against improper or unlawful use or infringement and to enforce the collection of any sums due for the manufacture or use thereof by any other party.

(4) All proceeds from the sale of such materials and products or other money collected pursuant to this section shall be deposited into the Grants and Donations Trust Fund of the ~~office department~~ and, when properly budgeted as approved by the Legislature and the Executive Office of the Governor, used to pay the cost of producing and disseminating materials and products to carry out the intent of this section.

Section 16. Section 282.303, Florida Statutes, is amended to read:

282.303 Definitions.—For the purposes of ss. 282.303-282.322, the term:

(1) “Agency” means those entities described in s. 216.011(1)(mm) ~~chapter 216.~~

(2) ~~“State Technology Council” means the council created in s. 282.3091 to develop a statewide vision for, and make recommendations on, information resources management.~~

(2)(3) “Chief Information Officer” means the person appointed by the agency head, ~~in consultation with the State Technology Office,~~ to coordinate and manage the information resources management policies and activities within that agency.

(3)(4) “Chief Information Officers Council” means the council created in s. 282.315 to facilitate the sharing and coordination of information resources management issues and initiatives among the agencies.

(4)(5) “State Technology Office” means the office created in ~~s. 282.102 s. 282.3093~~ to support and coordinate cost-effective deployment of technology and information resources and services across state government specified information resources management activities and to facilitate educational and training opportunities.

(5)(6) ~~“Information technology “Data processing hardware” means information technology equipment designed for the automated storage, manipulation, and retrieval of data, voice or video, by electronic or mechanical means, or both, and includes, but is not limited to, central processing units, front-end processing units, including miniprocessors and microprocessors, and related peripheral equipment such as data storage devices, document scanners, data entry, terminal controllers and data terminal equipment, computer-related word processing systems, and equipment and systems for computer networks, personal communication devices, and wireless equipment.~~

(6)(7) ~~“Information technology “Data processing services” means all services that include, but are not limited to, feasibility studies, systems design, software development, enterprise resource planning, application service provision, consulting, or time-sharing services.~~

(7)(8) “Data processing software” means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

(8)(9) “Agency Annual Enterprise Resource Planning and Information Resources Management Report” means the report prepared by the Chief Information Officer of each agency as required by s. 282.3063.

(9)(10) “State Annual Report on Enterprise Resource Planning and Information Resources Management” means the report prepared by the State Technology Office as defined in s. 282.3093.

~~(10)~~(11) “Project” means an undertaking directed at the accomplishment of a strategic objective relating to enterprise information resources management or a specific appropriated program.

~~(11)~~(12) “Enterprise resource planning and information resources management” means the planning, budgeting, acquiring, developing, organizing, directing, training, and control associated with government information technology resources. The term encompasses information and related resources, as well as the controls associated with their acquisition, development, dissemination, and use.

~~(12)~~(13) “Information technology resources” means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.

~~(13)~~(14) “Enterprise Information resources management infrastructure” means the hardware, software, networks, data, human resources, policies, standards, and facilities that are required to support the business processes of an agency or state enterprise.

~~(14)~~(15) “Technology Review Workgroup” means the workgroup created in s. 216.0446 to review and make recommendations on agencies’ information resources management planning and budgeting proposals.

~~(15)~~(16) “Total cost” means all costs associated with information resources management projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources, except that the total cost of loans or gifts of information technology resources to state universities to be used in instruction or research does not include fair market value.

~~(16)~~ “Standards” means the use of current, open, nonproprietary, or non-vendor-specific technologies.

Section 17. Section 282.3031, Florida Statutes, is amended to read:

282.3031 Assignment of information resources management responsibilities.—For purposes of ss. 282.303-282.322, to ensure the best management of state information technology resources, and notwithstanding other provisions of law to the contrary, the functions of information resources management are hereby assigned to the Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida Community College System; to the Supreme Court for the judicial branch; and to each state attorney and public defender; and to the State Technology Office for the agencies within the executive branch of state government.

Section 18. Subsections (1), (2), (3), (5), (7) and (10) of section 282.3032, Florida Statutes, are amended to read:

282.3032 Development and implementation of information systems; guiding principles.—To ensure the best management of the state's information technology resources, the following guiding principles are adopted:

(1) Enterprise resource ~~Cooperative~~ planning by state governmental entities is a prerequisite for the effective development and implementation of information systems to enable sharing of data and cost-effective and efficient services to individuals.

(2) The enterprise resource planning process, as well as coordination of development efforts, should include all principals from the outset.

(3) State governmental entities should be committed to maximizing information sharing and participate in enterprise-wide efforts when appropriate moving away from proprietary positions taken relative to data they collect and maintain.

(4) State governmental entities should maximize public access to data, while complying with legitimate security, privacy, and confidentiality requirements.

(5) State governmental entities should strive for an integrated electronic system for providing individuals with sharing of information ~~via networks~~ to the extent possible.

(7) The redundant capture, storage, and dissemination of data should, insofar as possible, be eliminated.

(10) Integration Consistency of data elements should be achieved by establishing standard data definitions, and formats, and integrated electronic systems, when possible.

Section 19. Section 282.3041, Florida Statutes, is amended to read:

282.3041 State agency responsibilities.—The head of each state agency, in consultation with the State Technology Office, is responsible and accountable for enterprise resource planning and information resources management within the agency in accordance with legislative intent and as defined in this part.

Section 20. Section 282.3055, Florida Statutes, is amended to read:

282.3055 Agency Chief Information Officer; appointment; duties.—

(1)(a) To assist the agency head in carrying out the enterprise resource planning and information resources management responsibilities, the agency head shall appoint, in consultation with the State Technology Office, or contract for a Chief Information Officer at a level commensurate with the role and importance of information technology resources in the agency. This position may be full time or part time.

(b) The Chief Information Officer must, at a minimum, have knowledge and experience in both management and information technology resources.

(2) The duties of the Chief Information Officer include, but are not limited to:

(a) Coordinating and facilitating agency enterprise resource planning and information resources management projects and initiatives.

(b) Preparing an agency annual report on enterprise resource planning and information resources management pursuant to s. 282.3063.

(c) Developing and implementing agency enterprise resource planning and information resources management policies, procedures, and standards, including specific policies and procedures for review and approval of the agency's purchases of information technology resources.

(d) Advising agency senior management as to the enterprise resource planning and information resources management needs of the agency for inclusion in planning documents required by law.

(e) Assisting in the development and prioritization of the enterprise resource planning and information resources management schedule of the agency's legislative budget request.

Section 21. Section 282.3063, Florida Statutes, is amended to read:

282.3063 Agency Annual Enterprise Resource Planning and Information Resources Management Report.—

(1) By September 1 of each year, and for the State University System within 90 days after completion of the expenditure analysis developed pursuant to s. 240.271(4), each Chief Information Officer shall prepare and submit to the State Technology Office an Agency Annual Enterprise Resource Planning and Information Resources Management Report. Following consultation with the State Technology Office Council and the Chief Information Officers Council, the Executive Office of the Governor and the fiscal committees of the Legislature shall jointly develop and issue instructions for the format and contents of the report.

(2) The Agency Annual Enterprise Resource Planning and Information Resources Management Report shall contain, at a minimum, the following:

(a) A forecast of enterprise resource planning and information resources management priorities and initiatives for the ensuing 2 years.

(b) A description of the current enterprise resource planning and information resources management infrastructure of the agency and planned changes for the ensuing 2 years.

(c) A status report on the major enterprise resource planning and information resources management projects of the agency.

(d) An assessment of the progress made toward implementing the prior fiscal year legislative appropriation to the agency for enterprise resource planning and information resources management.

(e) ~~The estimated expenditures by the agency for enterprise resource planning and information resources management for the prior fiscal year.~~

(f) An inventory list, by major categories, of the agency information technology resources, which specifically identifies the resources acquired during the previous fiscal year.

(g) An assessment of opportunities for the agency to share enterprise resource planning and information resources management projects or initiatives with other governmental or private entities.

(h) A list of enterprise resource planning and information resources management issues the agency has identified as statewide issues ~~or critical information resources management issues for which the State Technology Council could provide future leadership or assistance.~~

Section 22. Section 282.3095, Florida Statutes, is created to read:

282.3095 Task Force on Privacy and Technology.—

(1) The State Technology Office shall create a Task Force on Privacy and Technology. The task force shall include professionals in the fields of communications, government, law enforcement, law, marketing, technology, and financial services, including, but not limited to, the Florida Association of Court Clerks and Comptrollers, the Florida Insurance Council, the Society of Consumer Affairs Professionals in Business, the Florida Retail Federation, and the Office of Statewide Prosecution. The task force shall study and make policy recommendations by February 1, 2001 to the Legislature and the Governor which includes, but is not limited to:

(a) Privacy issues under the constitutions and laws of the United States and the State of Florida, the Public Records Act, and the advent of the use of advanced technologies.

(b) Technology fraud, including, but not limited to, the illegal use of citizens' identities and credit.

(c) Balancing the traditional openness of public records in the state with the need to protect the privacy and identity of individuals.

(d) The sale of public records to private individuals and companies.

(2) The task force shall recommend to the State Technology Office no fewer than three pilot projects designed to further the deployment of electronic access with protection of privacy. The pilot projects shall apply technologies and operating procedures to increase electronic access to public records and to reduce the reliance on paper documents while including safeguards for the protection of privacy rights and confidential information.

(3) In order to carry out its duties and responsibilities, the task force shall hold public meetings necessary to gather the best available knowledge regarding these issues. The State Technology Office shall staff the task force as necessary. The members of the task force shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses of

attending the public meetings and performing duties of the task force, including per diem and travel expenses as provided in s. 112.061. Such expenses shall be reimbursed from funds of the Department of Highway Safety and Motor Vehicles. This subsection expires July 1, 2001.

Section 23. Section 282.310, Florida Statutes, is amended to read:

282.310 State Annual Report on Enterprise Resource Planning and Information Resources Management.—

(1) By ~~February~~ January 15 of each year, the State Technology Office shall develop a State Annual Report on Enterprise Resource Planning and Information Resources Management.

(2) The State Annual Report on Enterprise Resource Planning and Information Resources Management shall contain, at a minimum, the following:

(a) The state vision for enterprise resource planning and information resources management.

(b) A forecast of the state enterprise resource planning and information resources management priorities and initiatives for the ensuing 2 years.

(c) A summary of major statewide policies recommended by the State Technology Office Council for enterprise resource planning and information resources management.

(d) A summary of memoranda issued by the Executive Office of the Governor.

(e) An assessment of the overall progress toward an integrated electronic system for deploying government products, services, and information to individuals and businesses and on state enterprise resource planning and information resources management initiatives and priorities for the past fiscal year.

(f) A summary of major statewide issues related to improving enterprise resource planning and information resources management by the state.

(g) An inventory list, by major categories, of state information technology resources.

(h) A summary of the total agency expenditures or descriptions of agreements, contracts, or partnerships for enterprise resource planning and information resources management and of enterprise-wide procurements done by the office on behalf of the state by each state agency.

(i) A summary of the opportunities for government agencies or entities to share enterprise resource planning and information resources management projects or initiatives with other governmental or private sector entities.

~~(j) A list of the information resources management issues that have been identified as statewide or critical issues for which the State Technology Council could provide leadership or assistance.~~

The state annual report shall also include enterprise resource planning and information resources management information from the annual reports prepared by the Board of Regents for the State University System, from the State Board of Community Colleges for the Florida Community College System, from the Supreme Court for the judicial branch, and from the Justice Administrative Commission on behalf of the state attorneys and public defenders. Expenditure information shall be taken from each agency's annual report as well as the annual reports of the Board of Regents, the State Board of Community Colleges, the Supreme Court, and the Justice Administrative Commission.

(3) The state annual report shall be made available in writing or through electronic means to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

Section 24. Section 282.315, Florida Statutes, is amended to read:

282.315 Chief Information Officers Council; creation.—The Legislature finds that enhancing communication, consensus building, coordination, and facilitation of statewide enterprise resource planning and information resources management issues is essential to improving state management of such resources.

(1) There is created a Chief Information Officers Council to:

(a) Enhance communication among the Chief Information Officers of state agencies by sharing enterprise resource planning and information resources management experiences and exchanging ideas.

(b) Facilitate the sharing of best practices that are characteristic of highly successful technology organizations, as well as exemplary information technology applications of state agencies.

(c) Identify efficiency opportunities among state agencies.

(d) Serve as an educational forum for enterprise resource planning and information resources management issues.

(e) Assist the State Technology Office Council in identifying critical statewide issues and, when appropriate, make recommendations for solving enterprise resource planning and information resources management deficiencies.

(2) Members of the council shall include the Chief Information Officers of all state agencies, including the Chief Information Officers of the agencies and governmental entities enumerated in s. 282.3031, except that there shall be one Chief Information Officer selected by the state attorneys and one Chief Information Officer selected by the public defenders. The chairs, or their designees, of the Geographic Information Board, the Florida Financial Management Information System Coordinating Council, the Criminal and Juvenile Justice Information Systems Council, and the Health Information Systems Council shall represent their respective organizations on the Chief Information Officers Council as voting members.

(3) The State Technology Office shall provide administrative support to the council.

Section 25. Section 282.318, Florida Statutes, is amended to read:

282.318 Security of data and information technology resources.—

(1) This section may be cited as the “Security of Data and Information Technology Resources Act.”

(2)(a) Each agency head, in consultation with the State Technology Office, is responsible and accountable for assuring an adequate level of security for all data and information technology resources of the agency and, to carry out this responsibility, shall, at a minimum:

1. Designate an information security manager who shall administer the security program of the agency for its data and information technology resources.

2. Conduct, and periodically update, a comprehensive risk analysis to determine the security threats to the data and information technology resources of the agency. The risk analysis information is confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

3. Develop, and periodically update, written internal policies and procedures to assure the security of the data and information technology resources of the agency. The internal policies and procedures which, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

4. Implement appropriate cost-effective safeguards to reduce, eliminate, or recover from the identified risks to the data and information technology resources of the agency.

5. Ensure that periodic internal audits and evaluations of the security program for the data and information technology resources of the agency are conducted. The results of such internal audits and evaluations are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

6. Include appropriate security requirements, as determined by the agency, in the written specifications for the solicitation of information technology resources.

(b) In those instances in which the State Technology Office of the Department of Management Services develops state contracts for use by state agencies, the department shall include appropriate security requirements

in the specifications for the solicitation for state contracts for procuring information technology resources.

Section 26. Subsections (2), (3), (4), (6), (7), and (8) of section 282.404, Florida Statutes, are amended to read:

282.404 Geographic information board; definition; membership; creation; duties; advisory council; membership; duties.—

(2)(a) The Florida Geographic Information Board is created in the State Technology Executive Office of the Governor. The purpose of the board is to facilitate the identification, coordination, collection, and sharing of geographic information among federal, state, regional, and local agencies, and the private sector. The board shall develop solutions, policies, and standards to increase the value and usefulness of geographic information concerning Florida. In formulating and developing solutions, policies, and standards, the board shall provide for and consider input from other public agencies, such as the state universities, large and small municipalities, urban and rural county governments, and the private sector.

(b) The Geographic Information Board may issue guidelines on recommended best practices, including recommended policies and standards, for the identification, coordination, collection, and sharing of geographic information.

(c) The Geographic Information Board may contract for, accept, and make gifts, grants, loans, or other aid from and to any other governmental entity and to any person. Members may contribute, and the board may receive and expend, funds for board initiatives.

(3) The board consists of the Chief Information Officer in the State Technology Office Director of Planning and Budgeting within the Executive Office of the Governor, the executive director of the Fish and Wildlife Conservation Commission, the executive director of the Department of Revenue, and the State Cadastral Surveyor, as defined in s. 177.503, or their designees, and the heads of the following agencies, or their designees: the Department of Agriculture and Consumer Services, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Board of Professional Surveyors and Mappers. The Governor shall appoint to the board one member each to represent the counties, municipalities, regional planning councils, water management districts, and county property appraisers. The Governor shall initially appoint two members to serve 2-year terms and three members to serve 4-year terms. Thereafter, the terms of all appointed members must be 4 years and the terms must be staggered. Members may be appointed to successive terms and incumbent members may continue to serve the board until a new appointment is made.

(4) The Chief Information Officer in the State Technology Office Director of Planning and Budgeting of the Executive Office of the Governor, or his or her designee, shall serve as the chair of the board. A majority of the membership of the board constitutes a quorum for the conduct of business. The board shall meet at least twice each year, and the chair may call a

meeting of the board as often as necessary to transact business. Administrative and clerical support to the board shall be provided by the State Technology Office of the Department of Management Services.

(6) The Florida Geographic Information Advisory Council is created in the State Technology Office ~~Executive Office of the Governor~~ to provide technical assistance and recommendations to the board.

(7) The Geographic Information Advisory Council consists of one member each from the State Technology Office ~~Office of Planning and Budgeting within the Executive Office of the Governor~~, the Fish and Wildlife Conservation Commission, the Department of Revenue, the Department of Agriculture and Consumer Services, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, the State Cadastral Surveyor, the Board of Professional Surveyors and Mappers, counties, municipalities, regional planning councils, water management districts, and property appraisers, as appointed by the corresponding member of the board, and the State Geologist. The Governor shall appoint to the council one member each, as recommended by the respective organization, to represent the Department of Children and Family Services, the Department of Health, the Florida Survey and Mapping Society, Florida Region of the American Society of Photogrammetry and Remote Sensing, Florida Association of Cadastral Mappers, the Florida Association of Professional Geologists, Florida Engineering Society, Florida Chapter of the Urban and Regional Information Systems Association, the forestry industry, the State University System survey and mapping academic research programs, and State University System geographic information systems academic research programs; and two members representing utilities, one from a regional utility, and one from a local or municipal utility. These persons must have technical expertise in geographic information issues. The Governor shall initially appoint six members to serve 2-year terms and six members to serve 4-year terms. Thereafter, the terms of all appointed members must be 4 years and must be staggered. Members may be appointed to successive terms, and incumbent members may continue to serve the council until a successor is appointed. Representatives of the Federal Government may serve as ex officio members without voting rights.

(8) A majority of the membership constitutes a quorum for the conduct of business and shall elect the chair of the advisory council biennially. The council shall meet at least twice a year, and the chair may call meetings as often as necessary to transact business or as directed by the board. The chair, or his or her designee, shall attend all board meetings on behalf of the council. Administrative and clerical support shall be provided by the State Technology Office of the Department of Management Services.

Section 27. Paragraph (b) of subsection (1) and paragraph (o) of subsection (3) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require exten-

sive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both. "Information technology resources" shall have the same meaning as in s. 282.303(12) ~~s. 282.303(13)~~.

(3)

(o) Data processing software obtained by an agency under a licensing agreement which prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software which is sensitive are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency. As used in this paragraph:

1. "Data processing software" has the same meaning as in s. 282.303(7) ~~s. 282.303(8)~~.

2. "Sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

a. Collect, process, store, and retrieve information which is exempt from the provisions of subsection (1);

b. Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

c. Control and direct access authorizations and security measures for automated systems.

Section 28. Subsection (1) of section 287.073, Florida Statutes, is amended to read:

287.073 Procurement of information technology resources.—

(1) For the purposes of this section, the term "information technology resources" has the same meaning ascribed in s. 282.303(12) ~~s. 282.303(13)~~.

Section 29. Sections 282.3091 and 282.3093, Florida Statutes, are repealed.

Section 30. Subsections (1), (2), and (3) of section 215.322, Florida Statutes, are amended to read:

215.322 Acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch.—

(1) It is the intent of the Legislature to encourage state agencies, the judicial branch and units of local government to make their goods, services,

and information more convenient to the public through the ~~and to reduce the administrative costs of government by~~ acceptance of payments by credit cards, charge cards, and debit cards to the maximum extent practicable when the benefits to the participating agency and the public substantiate the cost of accepting these types of payments.

(2) A state agency as defined in s. 216.011, or the judicial branch, may accept credit cards, charge cards, or debit cards in payment for goods and services ~~upon the recommendation of the Office of Planning and Budgeting and with the prior approval of the Treasurer.~~ When the Internet or other related electronic methods are to be used as the collection medium, the State Technology Office shall review and recommend to the Treasurer whether to approve the request with regard to the process or procedure to be used.

(3) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards, charge cards, or debit cards by state agencies or the judicial branch, including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution or other appropriate intermediaries and the agency or judicial branch which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

(b) Procedures which permit an agency or officer accepting payment by credit card, charge card, or debit card to impose a convenience fee upon the person making the payment. However, the total amount of such convenience fees shall not exceed the total cost to the state ~~agency of contracting for such card services.~~ A convenience fee is not refundable to the payor. Notwithstanding the foregoing, this section shall not be construed to permit surcharges on any other credit card purchase in violation of s. 501.0117.

(c) All service fees payable pursuant to this section when practicable shall be invoiced and paid by state warrant or such other manner that is satisfactory to the Comptroller in accordance with the time periods specified in s. 215.422.

(d) Submission of information to the Treasurer concerning the acceptance of credit cards, charge cards, or debit cards by all state agencies or the judicial branch.

(e) A methodology for agencies to use when completing the cost-benefit analysis referred to in subsection (1). The methodology must consider all quantifiable cost reductions, other benefits to the agency, and potential impact on general revenue. The methodology must also consider nonquantifiable benefits such as the convenience to individuals and businesses that would benefit from the ability to pay for state goods and services through the use of credit cards, charge cards, and debit cards.

Section 31. Subsections (5), (11), and (15) of section 287.012, Florida Statutes, are amended to read:

287.012 Definitions.—The following definitions shall apply in this part:

(5) “Competitive sealed bids” or “competitive sealed proposals” refers to the receipt of two or more sealed bids or proposals submitted by responsive and qualified bidders or offerors and includes bids or proposals transmitted by electronic means in lieu of or in addition to written bids or proposals.

(11) “Invitation to bid” means a written solicitation for competitive sealed bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities, or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation published or transmitted by electronic means.

(15) “Request for proposals” means a written solicitation for competitive sealed proposals with the title, date, and hour of the public opening designated. A written solicitation includes a solicitation published or transmitted by electronic means. The request for proposals is used when the agency is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when the agency is requesting that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.

Section 32. Paragraph (a) of subsection (16) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

(16)(a) To enter into joint agreements with governmental agencies, as defined in s. 163.3164(10), for the purpose of pooling funds for the purchase of commodities, information technology resources, or services that can be used by multiple agencies. However, the department shall ~~may~~ consult with the State Technology Office on joint agreements that involve the purchase of information technology resources. Agencies entering into joint purchasing agreements with the department shall authorize the department to contract for such purchases on their behalf.

Section 33. Subsection (22) is added to section 287.057, Florida Statutes, to read:

287.057 Procurement of commodities or contractual services.—

(22)(a) The State Technology Office of the department shall develop a program for on-line procurement of commodities and contractual services.

Only bidders prequalified as meeting mandatory requirements and qualifications criteria shall be permitted to participate in on-line procurement. The State Technology Office may contract for equipment and services necessary to develop and implement on-line procurement.

(b) The State Technology Office may adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement the program for on-line procurement. The rules shall include, but not be limited to:

1. Determining the requirements and qualification criteria for pre-qualifying bidders.
2. Establishing the procedures for conducting on-line procurement.
3. Establishing the criteria for eligible commodities and contractual services.
4. Establishing the procedures for providing access to on-line procurement.

Section 34. Creation and implementation of a marketing and image campaign.—

(1) Enterprise Florida, Inc., in collaboration with the private sector, shall create a marketing campaign to help attract, develop, and retain information technology businesses in this state. The campaign must be coordinated with any existing economic development promotion efforts in this state, and shall be jointly funded from private and public resources.

(2) The message of the campaign shall be to increase national and international awareness of this state as a state ideally suited for the successful advancement of the information technology business sector. Marketing strategies shall include development of promotional materials, Internet and print advertising, public relations and media placement, trade show attendance at information technology events, and appropriate followup activities. Efforts to promote this state as a high-technology business leader must include identification and coordination of existing business technology resources, partnerships with economic development organizations and private sector businesses, continued retention and growth of businesses based in this state that produce high-technology products or use high-technology skills for manufacturing, and recruitment of new business in such area.

Section 35. Development of an Internet-based system for information technology industry promotion and workforce recruitment.—

(1) The Department of Labor and Employment Security shall facilitate efforts to ensure the development and maintenance of a website that promotes and markets the information technology industry in this state. The website shall be designed to inform the public concerning the scope of the information technology industry in the state and shall also be designed to address the workforce needs of the industry. The website shall include, through links or actual content, information concerning information technology businesses in this state, including links to such businesses; informa-

tion concerning employment available at these businesses; and the means by which a jobseeker may post a resume on the website.

(2) The Department of Labor and Employment Security shall coordinate with the State Technology Office and the Workforce Development Board of Enterprise Florida, Inc., to ensure links, where feasible and appropriate, to existing job information websites maintained by the state and state agencies and to ensure that information technology positions offered by the state and state agencies are posted on the information technology website.

Section 36. Establishment of a network access point.—The state actively supports efforts that enhance the information technology industry in this state, particularly those efforts that increase broadband technology. A critical initiative to enhance this industry in this state is determined to be the development of a network access point, which is defined to be a carrier-neutral, public-private Internet traffic exchange point. The state encourages private information technology businesses to forge partnerships to develop a network access point in this state. Moreover, the state recognizes the importance of a network access point that addresses the needs of small information technology businesses.

Section 37. Paragraph (n) is added to subsection (5) of section 212.08, Florida Statutes, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(n) Equipment used to deploy broadband technologies.—

1. Beginning July 1, 2000, equipment purchased by a communications service provider that is necessary for use in the deployment of broadband technologies in the state as part of the direct participation by the communications service provider in a network access point, which is defined as a carrier-neutral, public-private Internet traffic exchange point, in this state shall be exempt from the tax imposed by this chapter. This exemption inures to the communications service provider only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To be entitled to a refund, an eligible communications service provider must file under oath with the department an application that includes:

a. The name and address of the communications service provider claiming to be entitled to the refund.

b. A specific description of the property for which the exemption is sought, including its serial number or other permanent identification number.

- c. The location of the property.
- d. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.
3. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the eligible property is purchased.
4. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.
5. For purposes of this paragraph:
  - a. “Broadband technology” means packaged technology that has the capability of supporting transmission speeds of at least 1.544 megabits per second in both directions.
  - b. “Communications service provider” means a company that supports or provides individuals and other companies with access to the Internet and other related services.
  - c. “Equipment” includes asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optic connector equipment, database equipment, and other network equipment used to provide broadband technology and information services.
6. Contingent upon annual appropriation, the department may approve refunds up to the amount appropriated for this refund program based on the filing of an application pursuant to this paragraph. No refund shall be made with respect to any application received by the department in any year after the funds appropriated for that year have been exhausted.
7. This paragraph is repealed June 30, 2005.

Section 38. The sum of \$700,000 from non-recurring General Revenue is appropriated for fiscal year 2000-2001 to the Department of Revenue to reimburse eligible companies for sales tax payments made on equipment specifically associated with the creation of a network access point. The Department of Revenue is authorized to adopt rules to implement the sales tax refund provisions of this act.

Section 39. Subsection (1) of section 556.108, Florida Statutes, is amended to read:

556.108 Exemptions.—The notification requirements provided in s. 556.105(1) do not apply to:

(1) Any excavation or demolition performed by the owner of single-family residential property; or for such owner by a member operator or an agent

of a member operator when such excavation or demolition is made entirely on such land, and only up to a depth of 10 inches; provided due care is used and there is no encroachment on any member operator's right-of-way, easement, or permitted use.

Section 40. (1) Subsection (1) of section 350.031, Florida Statutes, is amended to read:

350.031 Florida Public Service Commission Nominating Council.—

(1) There is created a Florida Public Service Commission Nominating Council consisting of nine members. At least one member of the council must be 60 years of age or older. Three members, including one member of the House of Representatives, shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives; three members, including one member of the Senate, shall be appointed by and serve at the pleasure of the President of the Senate; and three members shall be selected and appointed by a majority vote of the other six members of the council. All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council. A member may not be reappointed to the council, except for a member of the House of Representatives or the Senate who may be appointed to two 2-year terms or a person who is appointed to fill the remaining portion of an unexpired term.

(2) This section applies to any person who is a member of the Florida Public Service Commission Nominating Council on the effective date of this act.

Section 41. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect tother provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 42. This act shall take effect July 1, 2000.

Approved by the Governor May 26, 2000.

Filed in Office Secretary of State May 26, 2000.