

Senate Bill No. 580

An act relating to the Florida Statutes; amending ss. 8.0001, 24.121, 27.710, 57.085, 61.517, 106.07, 112.19, 112.191, 119.07, 154.01, 163.31776, 163.31777, 196.1983, 199.282, 210.20, 220.1501, 243.20, 267.173, 288.1067, 288.7091, 295.0185, 318.14, 322.051, 335.14, 341.8201, 381.0068, 381.60225, 395.2050, 400.0089, 400.23, 402.305, 402.3131, 403.706, 406.51, 409.1451, 409.815, 409.91196, 409.912, 411.01, 435.03, 440.102, 440.15, 445.0121, 467.0125, 470.002, 470.019, 470.036, 489.510, 496.404, 499.033, 499.051, 501.608, 507.05, 517.12, 553.73, 562.11, 562.111, 624.04, 624.303, 624.313, 624.317, 624.501, 624.504, 624.521, 624.523, 626.022, 626.112, 626.266, 626.321, 626.461, 626.733, 626.7354, 626.741, 626.753, 626.829, 626.852, 626.9541, 627.3111, 627.351, 628.255, 631.111, 633.01, 634.171, 634.420, 641.35, 642.034, 642.036, 642.045, 648.355, 679.703, 679.704, 765.5216, 765.522, 768.16, 768.17, 768.18, 790.06, 921.0022, 943.22, 943.66, 945.355, 1000.01, 1004.07, 1004.22, 1004.32, 1004.45, 1004.92, 1008.35, 1009.40, 1009.66, 1009.74, 1010.07, 1011.62, 1011.94, 1012.33, 1012.74, 1013.31, 1013.33, 1013.35, 1013.356, 1013.36, and 1013.68, F.S.; amending and transferring and renumbering s. 381.6025, F.S.; transferring and renumbering ss. 381.0602, 381.6021, 381.6022, 381.6023, 381.6024, and 381.6026, F.S.; reenacting ss. 121.055(4)(d), 316.640(1)(b), and 440.20(6), F.S.; and repealing ss. 20.12, 20.13, 288.109(10), 334.0445, 400.191(2)(b)10., and 420.504(9), F.S., pursuant to s. 11.242, F.S.; deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Paragraph (b) of subsection (2) of section 8.0001, Florida Statutes, is amended to read:

8.0001 Definitions.—In accordance with s. 8(a), Article X of the State Constitution, the United States Decennial Census of 2000 is the official census of the state for the purposes of congressional redistricting.

(2) As used in this chapter, the term:

(b) “Block group” means a cluster of blocks within a tract ~~track~~ which have the same first digit in their block identification number.

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

Section 2. Section 20.12, Florida Statutes, is repealed.

Reviser's note.—Repeals an obsolete provision. The functions of the Department of Banking and Finance were transferred to the Department of Financial Services or the Financial Services Commission by ch. 2002-404, Laws of Florida.

Section 3. Section 20.13, Florida Statutes, is repealed.

Reviser's note.—Repeals an obsolete provision. The functions of the Department of Insurance were transferred to the Department of Financial Services or the Financial Services Commission by ch. 2002-404, Laws of Florida.

Section 4. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 1001.42(16) or do not comply with school advisory council membership composition requirements pursuant to s. 1001.452(1), ~~229.58(1)~~. ~~Effective July 1, 2002~~, The Commissioner of Education shall withhold disbursements from the trust fund to any school district that fails to adopt the performance-based salary schedule required by s. 1012.22(1).

Reviser's note.—Amended to conform to the repeal of s. 229.58 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1001.452(1) by s. 59, ch. 2002-387; and to delete obsolete language.

Section 5. Subsection (1) of section 27.710, Florida Statutes, is amended to read:

27.710 Registry of attorneys applying to represent persons in postconviction capital collateral proceedings; certification of minimum requirements; appointment by trial court.—

(1) The executive director of the Commission on Capital Cases shall compile and maintain a statewide registry of attorneys in private practice who have certified that they meet the minimum requirements of s. 27.704(2), who are available for appointment by the court under this section to represent persons convicted and sentenced to death in this state in postconviction collateral proceedings, and who have attended within the last year a continuing legal education program of at least 10 hours' duration devoted specifically to the defense of capital cases, if available. Continuing legal education programs meeting the requirements of this rule offered by The Florida Bar or another recognized provider and approved for continuing legal education credit by The Florida Bar shall satisfy this requirement. The

failure to comply with this requirement may be cause for removal from the list until the requirement is fulfilled. To ensure that sufficient attorneys are available for appointment by the court, when the number of attorneys on the registry falls below 50, the executive director shall notify the chief judge of each circuit by letter and request the chief judge to promptly submit the names of at least three private attorneys who regularly practice criminal law in that circuit and who appear to meet the minimum requirements to represent persons in postconviction capital collateral proceedings. The executive director shall send an application to each attorney identified by the chief judge so that the attorney may register for appointment as counsel in postconviction capital collateral proceedings. As necessary, the executive director may also advertise in legal publications and other appropriate media for qualified attorneys interested in registering for appointment as counsel in postconviction capital collateral proceedings. Not later than September 1 of each year, and as necessary thereafter, the executive director shall provide to the Chief Justice of the Supreme Court, the chief judge and state attorney in each judicial circuit, and the Attorney General a current copy of its registry of attorneys who are available for appointment as counsel in postconviction capital collateral proceedings. The registry must be indexed by judicial circuit and must contain the requisite information submitted by the applicants in accordance with this section.

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

Section 6. Subsection (2) of section 57.085, Florida Statutes, is amended to read:

57.085 Waiver of prepayment of court costs and fees for indigent prisoners.—

(2) When a prisoner who is intervening in or initiating a judicial proceeding seeks waiver of prepayment of court costs and fees because of indigency, the prisoner must file an affidavit of indigency with the appropriate clerk of the court. The affidavit must contain complete information about the prisoner's identity; the nature and amount of the prisoner's income; all real property owned by the prisoner; all tangible and intangible property worth more than \$100 which is owned by the prisoner; the amount of cash held by the prisoner; the balance of any checking, savings, or money market account held by the prisoner; the prisoner's dependents, including their names and ages; the prisoner's debts, including the name of each creditor ~~debtor~~ and the amount owed to each creditor ~~debtor~~; and the prisoner's monthly expenses. The prisoner must certify in the affidavit whether the prisoner has been adjudicated indigent under this section, certified indigent under s. 57.081, or authorized to proceed as an indigent under 28 U.S.C. s. 1915 by a federal court. The prisoner must attach to the affidavit a photocopy of the prisoner's trust account records for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter. The affidavit must contain the following statements: "I am unable to pay court costs and fees. Under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete."

Reviser's note.—Amended to correct an apparent error and conform to context.

Section 7. Subsection (2) of section 61.517, Florida Statutes, is amended to read:

61.517 Temporary emergency jurisdiction.—

(2) If there is no previous child custody determination that is entitled to be enforced under this part, and a child custody proceeding has not been commenced in a court of a state having jurisdiction under ss. ~~61.514-61.516~~ 61.514-61.616, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under ss. 61.514-61.516. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under ss. 61.514-61.516, a child custody determination made under this section becomes a final determination if it so provides and this state becomes the home state of the child.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 61.616 does not exist; the reference is consistent with s. 61.516.

Section 8. Paragraph (b) of subsection (8) of section 106.07, Florida Statutes, is amended to read:

106.07 Reports; certification and filing.—

(8)

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chair of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever ~~is~~ is if greater, for the period covered by the late report. For reports required under s. 106.141(7), the fine is \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chair. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.

4. When the receipt from an established courier company is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

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

Section 9. Subsection (3) of section 112.19, Florida Statutes, as amended by section 1 of chapter 2002-232, Laws of Florida, is amended to read:

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

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, the state shall waive certain educational expenses that children of the deceased officer incur while obtaining a vocational-technical certificate, an undergraduate education, or a graduate or postbaccalaureate professional degree. The amount waived by the state shall be an amount equal to the cost of tuition, matriculation, and other statutorily authorized fees for a total of 120 credit hours for a vocational-technical certificate or an undergraduate education. For a child pursuing a graduate or postbaccalaureate professional degree, the amount waived shall equal the cost of matriculation and other statutorily authorized fees incurred while the child continues to fulfill the professional requirements associated with the graduate or postbaccalaureate professional degree program, and eligibility continues until the child's 29th birthday. The child may attend a state vocational-technical school, a state community college, or a state university. The child may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. For a child pursuing a vocational-technical certificate or an undergraduate education, the benefits provided under this subsection shall continue to the child until the child's 25th birthday. To be eligible for the benefits provided under this subsection for enrollment in a graduate or postbaccalaureate professional degree program, the child must be a state resident, as defined in s. ~~1009.21~~ 240.1201, at the time of enrollment.

(a) Upon failure of any child benefited by the provisions of this section to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child receiving benefits under this section must be enrolled according to the customary rules and requirements of the institution attended.

Reviser's note.—Amended to conform to the repeal of s. 240.1201 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1009.21 by s. 400, ch. 2002-387.

Section 10. Subsection (3) of section 112.191, Florida Statutes, as amended by section 2 of chapter 2002-232, Laws of Florida, is amended to read:

112.191 Firefighters; death benefits.—

(3) If a firefighter is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c), on or after July 1, 1980, the state shall waive certain educational expenses that children of the deceased firefighter incur while obtaining a vocational-technical certificate, an undergraduate education, or a graduate or postbaccalaureate professional degree. The amount waived by the state shall be an amount equal to the cost of tuition, matriculation, and other statutorily authorized fees for a total of 120 credit hours for a vocational-technical certificate or an undergraduate education. For a child pursuing a graduate or postbaccalaureate professional degree, the amount waived shall equal the cost of matriculation and other statutorily authorized fees incurred while the child continues to fulfill the professional requirements associated with the graduate or postbaccalaureate professional degree program, and eligibility continues until the child's 29th birthday. The child may attend a state vocational-technical school, a state community college, or a state university. The child may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. For a child pursuing a vocational-technical certificate or an undergraduate education, the benefits provided under this subsection shall continue to such a child until the child's 25th birthday. To be eligible for the benefits provided under this subsection for enrollment in a graduate or postbaccalaureate professional degree program, the child must be a state resident, as defined in s. 1009.21 240.1201, at the time of enrollment.

(a) Upon failure of any child benefited by the provisions of this section to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits thereof shall be withdrawn as to the child and no further moneys expended for the child's benefits so long as such failure or delinquency continues.

(b) Only students in good standing in their respective institutions shall receive the benefits thereof.

(c) All children receiving benefits under this section shall be enrolled according to the customary rules and requirements of the institution attended.

Reviser's note.—Amended to conform to the repeal of s. 240.1201 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1009.21 by s. 400, ch. 2002-387.

Section 11. Paragraph (ff) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

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

(3)

(ff)1. Until January 1, 2006, if a social security number, made confidential and exempt pursuant to s. ~~119.0721~~ 119.072, created pursuant to s. 1, ch. 2002-256, passed during the 2002 regular legislative session, or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (dd) s. 119.07(ee), created pursuant to s. 1, ch. 2002-257, passed during the 2002 regular legislative session, is or has been included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number, or by the holder's attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

2. Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28 may not include a person's social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, 2006, if a social security number or a complete bank account, debit, charge or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may request that a county recorder remove from an image or copy of an official record placed on a county recorder's publicly available Internet website, or a publicly available Internet website used by a county recorder to display public records outside the office or otherwise made electronically available outside the county recorder's office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers.

3. Upon the effective date of this act, subsections (3) and (4) of s. ~~119.0721~~ 119.072, do not apply to the clerks of the court or the county recorder with respect to court records and official records.

4. On January 1, 2006, and thereafter, the clerk of the court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in paragraph (dd) s. 119.07(3)(ee), and must keep social security numbers confidential and exempt as provided for in s. 119.0721 ~~119.072~~, without any person having to request redaction.

Reviser's note.—Amended to conform to the redesignation of the referenced s. 119.072 as s. 119.0721 and the redesignation of s. 119.07(3)(ee) as s. 119.07(3)(dd) by the reviser incident to compiling the 2002 Florida Statutes.

Section 12. Paragraph (d) of subsection (4) of section 121.055, Florida Statutes, is reenacted to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(4)

(d) A member of the Senior Management Service Class shall receive retirement credit at the rate of 2 percent of average final compensation for each year of service in such class after January 31, 1987.

Reviser's note.—Section 5, ch. 2002-273, Laws of Florida, purported to amend paragraph (4)(d) but failed to publish the amended paragraph. Absent affirmative evidence that the Legislature intended to repeal it, paragraph (4)(d) is reenacted to confirm that the omission was not intended.

Section 13. Subsection (3) of section 154.01, Florida Statutes, is amended to read:

154.01 County health department delivery system.—

(3) The Department of Health shall enter into contracts with the several counties for the purposes of this part. All contracts shall be negotiated and approved by the appropriate local governing bodies ~~and the appropriate district administrators~~ on behalf of the department. In accordance with federal guidelines, the state may utilize federal funds for county health department services. A standard contract format shall be developed and used by the department in contract negotiations. The contract shall include the three levels of county health department services outlined in subsection (2) above and shall contain a section which stipulates, for the contract year:

(a) All revenue sources, including federal, state, and local general revenue, fees, and other cash contributions, which shall be used by the county health department for county health department services;

(b) The types of services to be provided in each level of service;

(c) The estimated number of clients, where applicable, who will be served, by type of service;

- (d) The estimated number of services, where applicable, that will be provided, by type of service;
- (e) The estimated number of staff positions (full-time equivalent positions) who will work in each type of service area; and
- (f) The estimated expenditures for each type of service and for each level of service.

The contract shall also provide for financial and service reporting for each type of service according to standard service and reporting procedures established by the department.

Reviser's note.—Amended to delete an obsolete reference to district administrators that remains from the time when the State Health Officer was under the former Department of Health and Rehabilitative Services. The Department of Health does not have districts or district administrators.

Section 14. Paragraph (b) of subsection (1) and subsections (2) and (3) of section 163.31776, Florida Statutes, are amended to read:

163.31776 Public educational facilities element.—

(1) A county, in conjunction with the municipalities within the county, may adopt an optional public educational facilities element in cooperation with the applicable school district. In order to enact an optional public educational facilities element, the county and each municipality, unless the municipality is exempt as defined in this subsection, must adopt a consistent public educational facilities element and enter the interlocal agreement pursuant to ss. 163.3177(6)(h)4. and 163.31777(2). A municipality is exempt if it has no established need for a new school facility and it meets the following criteria:

(b) The district school board's 5-year facilities work program and the long-term 10-year work program, as provided in s. ~~1013.35~~ ~~235.185~~, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(2) The public educational facilities element must be based on data and analysis, including the interlocal agreement defined by ss. 163.3177(6)(h)4. and 163.31777(2), and on the educational facilities plan required by s. ~~1013.35~~ ~~235.185~~. Each local government public educational facilities element within a county must be consistent with the other elements and must address:

(a) The need for, strategies for, and commitments to addressing improvements to infrastructure, safety, and community conditions in areas proximate to existing public schools.

(b) The need for and strategies for providing adequate infrastructure necessary to support proposed schools, including potable water, wastewater,

drainage, solid waste, transportation, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization.

(c) Colocation of other public facilities, such as parks, libraries, and community centers, in proximity to public schools.

(d) Location of schools proximate to residential areas and to complement patterns of development, including using elementary schools as focal points for neighborhoods.

(e) Use of public schools to serve as emergency shelters.

(f) Consideration of the existing and planned capacity of public schools when reviewing comprehensive plan amendments and rezonings that are likely to increase residential development and that are reasonably expected to have an impact on the demand for public school facilities, with the review to be based on uniform, level-of-service standards, availability standards for public schools, and the financially feasible 5-year district facilities work program adopted by the school board pursuant to s. 1013.35 ~~235.185~~.

(g) A uniform methodology for determining school capacity consistent with the interlocal agreement entered pursuant to ss. 163.3177(6)(h)4. and 163.3177(2).

(3) The future land-use map series must incorporate maps that are the result of a collaborative process for identifying school sites in the educational facilities plan adopted by the school board pursuant to s. 1013.35 ~~235.185~~ and must show the locations of existing public schools and the general locations of improvements to existing schools or new schools anticipated over the 5-year, 10-year, and 20-year time periods, or such maps must constitute data and analysis in support of the future land-use map series. Maps indicating general locations of future schools or school improvements should not prescribe a land use on a particular parcel of land.

Reviser's note.—Amended to conform to the repeal of s. 235.185 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1013.35 by s. 830, ch. 2002-387.

Section 15. Paragraph (c) of subsection (1), paragraphs (e) and (f) of subsection (2), paragraph (c) of subsection (3), subsection (4), and paragraph (b) of subsection (6) of section 163.31777, Florida Statutes, are amended to read:

163.31777 Public schools interlocal agreement.—

(1)

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and the district school board may petition the state land planning agency for a waiver of one or more requirements of subsection (2). The waiver must be granted if the

procedures called for in subsection (2) are unnecessary because of the school district's declining school age population, considering the district's 5-year facilities work program prepared pursuant to s. ~~1013.35 235.185~~. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(2) At a minimum, the interlocal agreement must address the following issues:

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. ~~1013.35 235.185~~.

(f) Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. ~~1013.35 235.185~~.

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

(3)

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (2) or this subsection, it shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. ~~1013.65, 1013.68, 1013.70, and 1013.72 235.187, 235.216, 235.2195, and 235.42~~.

(4) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a Notice to Show Cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing

the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72 ~~235.187, 235.216, 235.2195, and 235.42.~~

(6) Except as provided in subsection (7), municipalities having no established need for a new school facility and meeting the following criteria are exempt from the requirements of subsections (1), (2), and (3):

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35 ~~235.185~~, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

Reviser's note.—Amended to conform to the repeal of chapter 235 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in chapter 1013 by ch. 2002-387.

Section 16. Section 196.1983, Florida Statutes, is amended to read:

196.1983 Charter school exemption from ad valorem taxes.—Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board pursuant to s. 1002.33(7) ~~228.056(9)~~ shall be exempt from ad valorem taxes. For leasehold properties, the landlord must certify by affidavit to the charter school that the lease payments shall be reduced to the extent of the exemption received. The owner of the property shall disclose to a charter school the full amount of the benefit derived from the exemption and the method for ensuring that the charter school receives such benefit. The charter school shall receive the full benefit derived from the exemption through either an annual or monthly credit to the charter school's lease payments.

Reviser's note.—Amended to conform to the repeal of s. 228.056 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1002.33(7) by s. 98, ch. 2002-387.

Section 17. Paragraph (b) of subsection (6) of section 199.282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(6) Late reporting penalties shall be imposed as follows:

(b) An initial penalty of \$10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or \$50 for each month or portion of a month, from the date due until filing is made, upon any security dealer or investment adviser who does not timely file or fails to file the statements required by s. 199.062(1) ~~199.062(3)~~. The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position

statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is \$100.

Reviser's note.—Amended to conform to the redesignation of s. 199.062(3) as s. 199.062(1) necessitated by the repeal of former subsections (1) and (2) by s. 60, ch. 2002-218, Laws of Florida.

Section 18. Paragraph (b) of subsection (2) of section 210.20, Florida Statutes, is amended to read:

210.20 Employees and assistants; distribution of funds.—

(2) As collections are received by the division from such cigarette taxes, it shall pay the same into a trust fund in the State Treasury designated "Cigarette Tax Collection Trust Fund" which shall be paid and distributed as follows:

(b)1. Beginning January 1, 1999, and continuing for 10 years thereafter, the division shall from month to month certify to the Comptroller the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 2.59 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Comptroller upon the State Treasury. These funds are hereby appropriated monthly out of the Cigarette Tax Collection Trust Fund, to be used for the purpose of constructing, furnishing, and equipping a cancer research facility at the University of South Florida adjacent to the H. Lee Moffitt Cancer Center and Research Institute. In fiscal years 1999-2000 and thereafter with the exception of fiscal year 2008-2009, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this subparagraph shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute for fiscal year 1998-1999 had payments been made for the entire fiscal year rather than for a 6-month period thereof.

2. Beginning July 1, 2002, and continuing through June 30, 2004, the division shall, in addition to the distribution authorized in subparagraph 1., from month to month certify to the Comptroller the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 0.2632 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. ~~1004.43~~ 240.512, by warrant drawn by the Comptroller. Beginning July 1, 2004, and continuing through June 30, 2016, the division shall, in addition to the distribution authorized in subparagraph 1., from month to month certify to the Comptroller the amount derived from the cigarette tax

imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 1.47 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43 ~~240.512~~, by warrant drawn by the Comptroller. These funds are appropriated monthly out of the Cigarette Tax Collection Trust Fund, to be used for the purpose of constructing, furnishing, and equipping a cancer research facility at the University of South Florida adjacent to the H. Lee Moffitt Cancer Center and Research Institute. In fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this subparagraph shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute in fiscal year 2001-2002, had this subparagraph been in effect.

Reviser's note.—Amended to conform to the repeal of s. 240.512 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1004.43 by s. 188, ch. 2002-387.

Section 19. Section 220.1501, Florida Statutes, is amended to read:

220.1501 Rulemaking authority to implement s. 220.15(2)(c), (4)(c), and (8).—The Department of Revenue has authority to adopt rules pursuant to the Administrative Procedure Act to implement s. 220.15(2)(c), (4)(c), and (8), as created by chapter 98-325, Laws of Florida. ~~The Board of Regents and the president of each participating nonpublic university shall monitor the various sponsored research contracts and make a report to the Speaker of the House of Representatives and to the President of the Senate by February 1, 2000, which shall provide any necessary information which indicates if the provisions of chapter 98-325 have been successful in attracting additional sponsored research contracts.~~

Reviser's note.—Amended to delete obsolete language.

Section 20. Subsection (10) of section 243.20, Florida Statutes, is amended to read:

243.20 Definitions.—The following terms, wherever used or referred to in this part shall have the following respective meanings, unless a different meaning clearly appears from the context:

(10) “Loan in anticipation of tuition revenues” means a loan to a private institution for higher education under circumstances in which tuition revenues anticipated to be received by the institution in any budget year are estimated to be insufficient at any time during the budget year to pay the operating expenses or other obligations of the institution in accordance with the budget of the institution. The loans are permitted within guidelines adopted by the authority consistent with the provisions for similar loans undertaken by school districts under s. 1011.13 ~~237.151~~, excluding provisions applicable to the limitations on borrowings relating to the levy of taxes and the adoption of budgets in accordance with law applicable solely to school districts. The Florida Resident Access Grant shall not be considered

tuition revenues for the purpose of calculating a loan to a private institution pursuant to the provision of this chapter.

Reviser's note.—Amended to conform to the repeal of s. 237.151 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1011.13 by s. 616, ch. 2002-387.

Section 21. Subsection (8) of section 267.173, Florida Statutes, is amended to read:

267.173 Historic preservation in West Florida; goals; contracts for historic preservation; powers and duties.—

(8) Notwithstanding any other provision of law, the University of West Florida and its direct-support organization are eligible to match state funds in the Trust Fund for University Major Gifts established pursuant to s. 1011.94.

Reviser's note.—Amended to conform to the complete name of the fund as provided in s. 1011.94.

Section 22. Paragraph (a) of subsection (2) of section 288.1067, Florida Statutes, is amended to read:

288.1067 Confidentiality of records.—

(2) Nothing contained in this section shall prevent the Office of Tourism, Trade, and Economic Development or Enterprise Florida, Inc., from releasing:

(a) The names of qualified businesses, the total number of jobs each business expects to create, the total number of jobs created by each business, and the amount of tax refunds awarded to and claimed by each business under s. ~~288.1045~~ 228.1045 or s. 288.106. However, for a business applying under s. 288.1045 based on obtaining a new Department of Defense contract, the total number of jobs expected and the amount of tax refunds claimed shall not be released until the new Department of Defense contract is awarded;

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 228.1045 does not exist; s. 288.1045 relates to the qualified defense contractor tax refund program.

Section 23. Subsection (10) of section 288.109, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which provided fee exemptions for certain development permits, was originally repealed by s. 6, ch. 2001-278, Laws of Florida. Subsequently, there was a technical amendment to subsection (10) by s. 51, ch. 2002-20, Laws of Florida, to delete a reference to the former High Speed Rail Transportation Siting Act, but this amendment was not intended to revive subsection (10).

Section 24. Subsection (7) of section 288.7091, Florida Statutes, is amended to read:

288.7091 Duties of the Florida Black Business Investment Board, Inc.—The Florida Black Business Investment Board, Inc., shall:

(7) Develop memoranda of understanding with the Departments of Education, Transportation, Community Affairs, and Management Services, as well as with Workforce Florida, Inc., and the State Florida Board of Education, detailing efforts of common interest and collaborations to expand black business development;

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 229.004, which established the Florida Board of Education, was repealed by s. 1058, ch. 2002-387, Laws of Florida. Section 19, ch. 2002-387, established the State Board of Education.

Section 25. Subsection (2) of section 295.0185, Florida Statutes, is amended to read:

295.0185 Children of deceased or disabled military personnel who die or become disabled in Operation Enduring Freedom; educational opportunity.—

(2) The provisions of ss. ~~240.404~~, 295.03, 295.04, 295.05, and 1009.40 apply.

Reviser's note.—Amended to conform to the repeal of s. 240.404 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1009.40 by s. 413, ch. 2002-387.

Section 26. Paragraph (b) of subsection (1) of section 316.640, Florida Statutes, is reenacted to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the train-

ing and qualifications standards for toll enforcement officers established by the Department of Transportation.

Reviser's note.—Section 109, ch. 2002-20, Laws of Florida, purported to amend subsection (1) but failed to publish paragraph (b) of that subsection. Absent affirmative evidence that the Legislature intended to repeal it, paragraph (1)(b) is reenacted to confirm that the omission was not intended.

Section 27. Subsection (1) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(1) Except as provided in ss. 318.17 and 320.07(3)(c), any person cited for a violation of ~~s. 1006.66(3)~~, chapter 316, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.16(2) or (3), s. 322.161(5), s. 322.19, or s. 1006.66(3) ~~1006.66~~ is charged with a noncriminal infraction and must be cited for such an infraction and cited to appear before an official. If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. 316.027(4), in addition to any other penalties.

Reviser's note.—The amendment to this section by s. 963, ch. 2002-387, Laws of Florida, deleted a reference to former s. 240.265 and added references to both ss. 1006.66 and 1006.66(3). Section 1006.66(3) is the successor provision to former s. 240.265.

Section 28. Paragraph (c) of subsection (2) of section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards.—

(2)

(c) Notwithstanding any other provisions of this chapter, if an applicant establishes his or her identity ~~identify~~ for an identification card using an identification document authorized under sub-subparagraphs (a)3.e.-f., the identification card shall expire 4 years after the date of issuance or upon the expiration date cited on the United States Department of Justice documents, whichever date first occurs, and may not be renewed or obtain a duplicate except in person.

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

Section 29. Section 334.0445, Florida Statutes, is repealed.

Reviser's note.—Repeals an obsolete provision. The section authorized a model career service classification and compensation plan. Authorization for the program expired June 30, 2002.

Section 30. Subsection (2) of section 335.14, Florida Statutes, is amended to read:

335.14 Traffic control devices on State Highway System or State Park Road System; exemption for computerized traffic systems and control devices.—

(2) Computerized traffic systems and control devices which are used solely for the purpose of motor vehicle traffic control and surveillance shall be exempted from the provisions of chapter 282 ~~and s. 287.073~~.

Reviser's note.—Amended to conform to the repeal of s. 287.073 by s. 20, ch. 2002-207, Laws of Florida.

Section 31. Section 341.8201, Florida Statutes, is amended to read:

341.8201 Short title.—Sections ~~341.8201-341.842~~ 341.8201-341.843 may be cited as the “Florida High-Speed Rail Authority Act.”

Reviser's note.—Amended to conform to context; there is no s. 341.843.

Section 32. Subsection (2) of section 381.0068, Florida Statutes, is amended to read:

381.0068 Technical review and advisory panel.—

(2) The primary purpose of the panel is to assist the department in rulemaking and decisionmaking by drawing on the expertise of representatives from several groups that are affected by onsite sewage treatment and disposal systems. The panel may also review and comment on any legislation or any existing or proposed state policy or issue related to onsite sewage treatment and disposal systems. If requested by the panel, the chair will advise any affected person or member of the Legislature of the panel's position on the legislation or any existing or proposed state policy or issue. The chair may also take such other action as is appropriate to allow the panel to function. At a minimum, the panel shall consist of a soil scientist; a professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in onsite sewage treatment and disposal systems; two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems; a representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state; a representative from the real estate industry who is recommended by the Florida Association of Realtors; a consumer representative with a science background; two representatives of the septic tank industry recommended by the Florida Onsite Wastewater ~~Septic Tank~~ Association, including one who is a manufacturer of onsite sewage treatment and disposal systems; and a representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department. Members are to be appointed for a term of 2 years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise. All rules proposed by the department which relate to onsite sewage treatment and disposal systems must be presented to the panel for review and comment

prior to adoption. The panel's position on proposed rules shall be made a part of the rulemaking record that is maintained by the agency. The panel shall select a chair, who shall serve for a period of 1 year and who shall direct, coordinate, and execute the duties of the panel. The panel shall also solicit input from the department's variance review and advisory committee before submitting any comments to the department concerning proposed rules. The panel's comments must include any dissenting points of view concerning proposed rules. The panel shall hold meetings as it determines necessary to conduct its business, except that the chair, a quorum of the voting members of the panel, or the department may call meetings. The department shall keep minutes of all meetings of the panel. Panel members shall serve without remuneration, but, if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

Reviser's note.—Amended to conform to the renaming of the Florida Septic Tank Association as the Florida Onsite Wastewater Association.

Section 33. Sections 381.0602, 381.6021, 381.6022, 381.6023, 381.6024, and 381.6026, Florida Statutes, are transferred and renumbered as sections 765.53, 765.541, 765.542, 765.543, 765.544, and 765.546, Florida Statutes, respectively.

Reviser's note.—The cited sections, which relate to organ transplants, are transferred from chapter 381, the general public health chapter of the Florida Statutes, to part V of chapter 765, which relates to anatomical gifts.

Section 34. Section 381.6025, Florida Statutes, is transferred and renumbered as section 765.545, Florida Statutes, and amended to read:

765.545 ~~381.6025~~ Physician supervision of cadaveric organ and tissue procurement coordinators.—Organ procurement organizations, tissue banks, and eye banks may employ coordinators, who are registered nurses, physician's assistants, or other medically trained personnel who meet the relevant standards for organ procurement organizations, tissue banks, or eye banks as adopted by the Agency for Health Care Administration under s. 765.541 ~~381.6021~~, to assist in the medical management of organ donors or in the surgical procurement of cadaveric organs, tissues, or eyes for transplantation or research. A coordinator who assists in the medical management of organ donors or in the surgical procurement of cadaveric organs, tissues, or eyes for transplantation or research must do so under the direction and supervision of a licensed physician medical director pursuant to rules and guidelines to be adopted by the Agency for Health Care Administration. With the exception of organ procurement surgery, this supervision may be indirect supervision. For purposes of this section, the term "indirect supervision" means that the medical director is responsible for the medical actions of the coordinator, that the coordinator is operating under protocols expressly approved by the medical director, and that the medical director or his or her physician designee is always available, in person or by telephone, to provide medical direction, consultation, and advice in cases of organ, tissue, and eye donation and procurement. Although indirect supervision is authorized under this section, direct physician supervision is to be encouraged when appropriate.

Reviser's note.—The cited section, which relates to physician supervision of cadaveric organ and tissue procurement coordinators, is transferred from chapter 381, the general public health chapter of the Florida Statutes, to part V of chapter 765, which relates to anatomical gifts. The section is amended to conform a cross-reference to s. 381.6021 to the transfer of that section to s. 765.541 by this act.

Section 35. Subsection (2) of section 381.60225, Florida Statutes, is amended to read:

381.60225 Background screening.—

(2) An organ procurement organization, tissue bank, or eye bank certified by the Agency for Health Care Administration in accordance with ss. 765.541 ~~381.6021~~ and 765.542 ~~381.6022~~ is not subject to the requirements of this section if the entity has no direct patient care responsibilities and does not bill patients or insurers directly for services under the Medicare or Medicaid programs, or for privately insured services.

Reviser's note.—Amended to conform cross-references to ss. 381.6021 and 381.6022 to the transfer of those sections to ss. 765.541 and 765.542, respectively, by this act.

Section 36. Subsection (2) of section 395.2050, Florida Statutes, is amended to read:

395.2050 Routine inquiry for organ and tissue donation; certification for procurement activities; death records review.—

(2) Every hospital licensed under this chapter that is engaged in the procurement of organs, tissues, or eyes shall comply with the certification requirements of ss. 765.541-765.546 ~~381.6021-381.6026~~.

Reviser's note.—Amended to conform cross-references to ss. 381.6021-381.6026 to the transfer of those sections to ss. 765.541-765.546 by this act.

Section 37. Section 400.0089, Florida Statutes, is amended to read:

400.0089 Agency reports.—The Department of Elderly Affairs shall maintain a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and to residents, for the purpose of identifying and resolving significant problems. The department and the State Long-Term Care Ombudsman Council shall submit such data as part of its annual report required pursuant to s. 400.0067(2)(f) ~~400.0067(2)(g)~~ to the Agency for Health Care Administration, the Department of Children and Family Services, the Florida Statewide Advocacy Council, the Advocacy Center for Persons with Disabilities, the Commissioner for the United States Administration on Aging, the National Ombudsman Resource Center, and any other state or federal entities that the ombudsman determines appropriate. The State Long-Term Care Ombudsman Council shall publish quarterly and make readily available information pertaining to the number and types of complaints received by the long-term care ombudsman program.

Reviser's note.—Amended to conform to the redesignation of s. 400.0067(2)(g) as s. 400.0067(2)(f) by s. 22, ch. 2002-223, Laws of Florida.

Section 38. Subparagraph 10. of paragraph (b) of subsection (2) of section 400.191, Florida Statutes, is repealed.

Reviser's note.—The cited subparagraph, which relates to consumer and family satisfaction survey information to be provided in printed form by the Agency for Health Care Administration, as described in former s. 400.0225, is obsolete. Section 400.0225 was repealed by s. 14, ch. 2001-377, Laws of Florida, along with other statutory references to the surveys.

Section 39. Paragraph (h) of subsection (2) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to:

(h) ~~The implementation of the consumer satisfaction survey pursuant to s. 400.0225; The availability, distribution, and posting of reports and records pursuant to s. 400.191; and the Gold Seal Program pursuant to s. 400.235.~~

Reviser's note.—Amended to conform to the repeal of s. 400.0225 by s. 14, ch. 2001-377, Laws of Florida.

Section 40. Paragraph (d) of subsection (2) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

- a. State and local rules and regulations which govern child care.
- b. Health, safety, and nutrition.
- c. Identifying and reporting child abuse and neglect.
- d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use, as determined by the department, for owner-operators and child care personnel of a child care facility.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, as ~~approved by the Articulation Coordinating Committee~~, pursuant to ss. 1007.24 and 1007.25 s. 229.551(1)(g). Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development associate waiver certificate shall be automatically exempted from the training requirements in subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional approved 8 clock hours of inservice training or an equivalent as determined by the department.

4. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and vocational-technical programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

5. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

6. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

7. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

Reviser's note.—Amended to conform to the elimination of the Articulation Coordinating Committee by ch. 2002-387, Laws of Florida. The paragraph is also amended to conform to the repeal of s. 229.551 by s. 1058, ch. 2002-387, and the enactment of similar material in ss. 1007.24 and 1007.25 by ss. 350 and 351, ch. 2002-387, respectively.

Section 41. Subsection (3) of section 402.3131, Florida Statutes, is amended to read:

402.3131 Large family child care homes.—

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, ~~as approved by the Articulation Coordinating Committee, pursuant to ss. 1007.24 and 1007.25 s. 229.551(1)(g).~~

Reviser's note.—Amended to conform to the elimination of the Articulation Coordinating Committee by ch. 2002-387, Laws of Florida. The subsection is also amended to conform to the repeal of s. 229.551 by s. 1058, ch. 2002-387, and the enactment of similar material in ss. 1007.24 and 1007.25 by ss. 350 and 351, ch. 2002-387, respectively.

Section 42. Subsection (7) of section 403.706, Florida Statutes, is amended to read:

403.706 Local government solid waste responsibilities.—

(7) In order to assess the progress in meeting the goal established in subsection (4), each county shall, by November each year, provide information to the department regarding its annual solid waste management program and recycling activities. The information by the county must include:

(a) The amount of municipal solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

(b) The amount and type of materials from the municipal solid waste stream that were recycled; and

(c) The percentage of the population participating in various types of recycling activities instituted.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 43. Section 406.51, Florida Statutes, is amended to read:

406.51 Disposition of unclaimed deceased veterans; contract requirements.—Any contract by a local governmental entity for the disposal of unclaimed human remains must provide for compliance with s. 406.50(1) 245.06(1) and require that the procedures in 38 C.F.R., relating to disposition of unclaimed deceased veterans, be followed.

Reviser's note.—Amended to conform to the redesignation of s. 245.06 as s. 406.50 by the reviser incident to compiling the 2002 Florida Statutes.

Section 44. Paragraph (b) of subsection (5) of section 409.1451, Florida Statutes, is amended to read:

409.1451 Independent living transition services.—

(5) PROGRAM COMPONENT OF SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.—Based on the availability of funds, the department shall provide or arrange for the following services to young adults formerly in foster care who meet the prescribed conditions and are determined eligible by the department. The categories of services available to assist a young adult formerly in foster care to achieve independence are:

(b) Road-to-Independence Scholarship Program.—

1. The Road-to-Independence Scholarship Program is intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to achieve independence. The amount of the award shall equal the earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job, after considering other grants and scholarships that are in excess of the educational institutions' fees and costs, and contingent upon available funds. Students eligible for the Road-to-Independence Scholarship Program may also be eligible for educational fee waivers for workforce development postsecondary programs, community colleges, and universities, pursuant to s. 1009.25(2)(c) ss. 239.117(4)(e), 240.235(5)(a), and 240.35(2)(a).

2. A young adult 18 to 21 years of age is eligible for the initial award, and a young adult under 23 years of age is eligible for renewal awards, if he or she:

a. Is a dependent child, pursuant to chapter 39, and is living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday;

b. Has spent at least 6 months living in foster care before reaching his or her 18th birthday;

c. Is a resident of this state as defined in s. 1009.40 240.404; and

d. Meets one of the following qualifications:

(I) Has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435 232.246 or s. 229.814, and has been

admitted for full-time enrollment in an eligible postsecondary education institution as defined in s. 1009.533 ~~240.40204~~;

(II) Is enrolled full time in an accredited high school, is within 2 years of graduation, and has maintained a grade point average of at least 2.0 on a scale of 4.0 for the two semesters preceding the date of his or her 18th birthday; or

(III) Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent, is making satisfactory progress in that program as certified by the program, and is within 2 years of graduation.

3.a. The department must advertise the availability of the program and must ensure that the children and young adults leaving foster care, foster parents, or family services counselors are informed of the availability of the program and the application procedures.

b. A young adult must apply for the initial award during the 6 months immediately preceding his or her 18th birthday. A young adult who fails to make an initial application, but who otherwise meets the criteria for an initial award, may make one application for the initial award if such application is made before the young adult's 21st birthday.

c. If funding for the program is available, the department shall issue awards from the scholarship program for each young adult who meets all the requirements of the program.

d. An award shall be issued at the time the eligible student reaches 18 years of age.

e. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award must be transferred with the recipient.

f. Scholarship funds awarded to any eligible young adult under this program are in addition to any other services provided to the young adult by the department through its independent living transition services.

g. The department shall provide information concerning young adults receiving the Road-to-Independence Scholarship to the Department of Education for inclusion in the student financial assistance database, as provided in s. 1009.94 ~~240.40401~~.

h. Scholarship funds shall be terminated when the young adult has attained a bachelor of arts or bachelor of science degree, or equivalent undergraduate degree, or reaches 23 years of age, whichever occurs earlier.

i. The department shall evaluate and renew each award annually during the 90-day period before the young adult's birthday. In order to be eligible for a renewal award for the subsequent year, the young adult must:

(I) Complete at least 12 semester hours or the equivalent in the last academic year in which the young adult earned a scholarship, except for a young adult who meets the requirements of s. 1009.41 ~~240.4041~~.

(II) Maintain the cumulative grade point average required by the scholarship program, except that, if the young adult's grades are insufficient to renew the scholarship at any time during the eligibility period, the young adult may restore eligibility by improving the grade point average to the required level.

j. Scholarship funds may be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution as defined in sub-subparagraph 2.d., or is no longer a state resident. The department shall notify a student who is terminated and inform the student of his or her right to appeal.

k. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may subsequently apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age, and a student may not apply for reinstatement more than once. In order to be eligible for reinstatement, the young adult must meet the eligibility criteria and the criteria for award renewal for the scholarship program.

l. A young adult receiving continued services of the foster care program under former s. 409.145(3) must transfer to the scholarship program by July 1, 2003.

Reviser's note.—Amended to conform to the repeal of ss. 239.117, 240.235, and 240.35 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1009.25(2)(c) by s. 404, ch. 2002-387; the repeal of s. 240.404 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1009.40 by s. 413, ch. 2002-387; the repeal of ss. 232.246 and 229.814 by s. 1058, ch. 2002-387, and the enactment of similar material in ss. 1003.43 and 1003.435 by ss. 132 and 133, ch. 2002-387, respectively; the repeal of s. 240.40204 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1009.533 by s. 425, ch. 2002-387; the repeal of s. 240.40401 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1009.94 by s. 477, ch. 2002-387; and the repeal of s. 240.4041 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1009.41 by s. 414, ch. 2002-387.

Section 45. Paragraph (e) of subsection (2) of section 409.815, Florida Statutes, is amended to read:

409.815 Health benefits coverage; limitations.—

(2) BENCHMARK BENEFITS.—In order for health benefits coverage to qualify for premium assistance payments for an eligible child under ss. 409.810-409.820, the health benefits coverage, except for coverage under Medicaid and Medikids, must include the following minimum benefits, as medically necessary.

(e) Organ transplantation services.—Covered services include pretransplant, transplant, and postdischarge services and treatment of complications after transplantation for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council

under s. ~~765.53~~ ~~381.0602~~ or the Bone Marrow Transplant Advisory Panel under s. 627.4236.

Reviser's note.—Amended to conform a cross-reference to s. 381.0602 to the transfer of that section to s. 765.53 by this act.

Section 46. Subsections (1) and (2) of section 409.91196, Florida Statutes, are amended to read:

409.91196 Supplemental rebate agreements; confidentiality of records and meetings.—

(1) Trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in records of the Agency for Health Care Administration and its agents with respect to supplemental rebate negotiations and which are prepared pursuant to a supplemental rebate agreement under s. ~~409.912(38)(a)7~~, ~~409.912(37)(a)7~~, are confidential and exempt from s. 119.07 and s. 24(a), Art. I of the State Constitution.

(2) Those portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates are disclosed for discussion or negotiation of a supplemental rebate agreement under s. ~~409.912(38)(a)7~~, ~~409.912(37)(a)7~~, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Reviser's note.—Amended to conform to the addition of a new subsection (13) to s. 409.912 by s. 14, ch. 2002-223, Laws of Florida, and the redesignation of existing subsections to conform.

Section 47. Paragraph (c) of subsection (3), paragraph (c) of subsection (19), and subsection (27) of section 409.912, Florida Statutes, are amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(3) The agency may contract with:

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (15) and (16) ~~(14)~~ and ~~(15)~~.

(19) Any entity contracting with the agency pursuant to this section to provide health care services to Medicaid recipients is prohibited from engaging in any of the following practices or activities:

(c) Granting or offering of any monetary or other valuable consideration for enrollment, except as authorized by subsection (22) ~~(21)~~.

(27) The agency shall perform enrollments and disenrollments for Medicaid recipients who are eligible for MediPass or managed care plans. Notwithstanding the prohibition contained in paragraph (19)(f) ~~(18)(f)~~, managed care plans may perform preenrollments of Medicaid recipients under the supervision of the agency or its agents. For the purposes of this section, “preenrollment” means the provision of marketing and educational materials to a Medicaid recipient and assistance in completing the application forms, but shall not include actual enrollment into a managed care plan. An application for enrollment shall not be deemed complete until the agency or its agent verifies that the recipient made an informed, voluntary choice. The agency, in cooperation with the Department of Children and Family Services, may test new marketing initiatives to inform Medicaid recipients about their managed care options at selected sites. The agency shall report to the Legislature on the effectiveness of such initiatives. The agency may contract with a third party to perform managed care plan and MediPass enrollment and disenrollment services for Medicaid recipients and is authorized to adopt rules to implement such services. The agency may adjust the capitation rate only to cover the costs of a third-party enrollment and disenrollment contract, and for agency supervision and management of the managed care plan enrollment and disenrollment contract.

Reviser’s note.—Amended to conform to the redesignation of subsections of s. 409.912 by s. 14, ch. 2002-223, Laws of Florida.

Section 48. Paragraphs (n), (o), and (s) of subsection (4) of section 411.01, Florida Statutes, are amended to read:

411.01 Florida Partnership for School Readiness; school readiness coalitions.—

(4) FLORIDA PARTNERSHIP FOR SCHOOL READINESS.—

(n) The partnership shall coordinate the efforts toward school readiness in this state and provide independent policy analyses and recommendations to the Governor, the State ~~Florida~~ Board of Education, and the Legislature.

(o) The partnership shall prepare and submit to the State Florida Board of Education a system for measuring school readiness. The system must include a uniform screening, which shall provide objective data regarding the following expectations for school readiness which shall include, at a minimum:

1. The child's immunizations and other health requirements as necessary, including appropriate vision and hearing screening and examinations.
2. The child's physical development.
3. The child's compliance with rules, limitations, and routines.
4. The child's ability to perform tasks.
5. The child's interactions with adults.
6. The child's interactions with peers.
7. The child's ability to cope with challenges.
8. The child's self-help skills.
9. The child's ability to express his or her needs.
10. The child's verbal communication skills.
11. The child's problem-solving skills.
12. The child's following of verbal directions.
13. The child's demonstration of curiosity, persistence, and exploratory behavior.
14. The child's interest in books and other printed materials.
15. The child's paying attention to stories.
16. The child's participation in art and music activities.
17. The child's ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships.

(s) The partnership shall submit an annual report of its activities to the Governor, the executive director of the Florida Healthy Kids Corporation, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses of the Legislature. In addition, the partnership's reports and recommendations shall be made available to the State Florida Board of Education, other appropriate state agencies and entities, district school boards, central agencies for child care, and county health departments. The annual report must provide an analysis of school readiness activities across the state, including the number of children who were served in the programs and the number of children who were ready for school.

To ensure that the system for measuring school readiness is comprehensive and appropriate statewide, as the system is developed and implemented, the partnership must consult with representatives of district school systems, providers of public and private child care, health care providers, large and small employers, experts in education for children with disabilities, and experts in child development.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 229.004, which established the Florida Board of Education, was repealed by s. 1058, ch. 2002-387, Laws of Florida. Section 19, ch. 2002-387, established the State Board of Education.

Section 49. Subsection (9) of section 420.504, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The cited subsection provides for members of the board of directors of the former Florida Housing Finance Agency in office on December 31, 1997, to continue in office as directors of the Florida Housing Finance Corporation for the balance of their 4-year terms.

Section 50. Paragraph (b) of subsection (3) of section 435.03, Florida Statutes, is amended to read:

435.03 Level 1 screening standards.—

(3) Standards must also ensure that the person:

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.28 ~~741.30~~.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 741.30 provides for injunctions against domestic violence; "domestic violence" is defined in s. 741.28.

Section 51. Subsections (3) and (15) of section 440.102, Florida Statutes, are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—~~prior to his or her receiving workers' compensation payments.~~

(a) One time only, prior to testing, an employer shall give all employees and job applicants for employment a written policy statement which contains:

1. A general statement of the employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

- b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.
 2. A statement advising the employee or job applicant of the existence of this section.
 3. A general statement concerning confidentiality.
 4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications to a medical review officer both before and after being tested.
 5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the department.
 6. The consequences of refusing to submit to a drug test.
 7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.
 8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.
 9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.
 10. A list of all drugs for which the employer will test, described by brand name or common name, as applicable, as well as by chemical name.
 11. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.
 12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.
- (b) An employer not having a drug-testing program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a drug-testing program is being implemented and the beginning of actual drug testing. An employer having a drug-testing program in place prior to July 1, 1990, is not required to provide a 60-day notice period.

(c) An employer shall include notice of drug testing on vacancy announcements for positions for which drug testing is required. A notice of the employer's drug-testing policy must also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy must be made available for inspection by the employees or job applicants of the employer during regular business hours in the employer's personnel office or other suitable locations.

(15) STATE CONSTRUCTION CONTRACTS.—Each construction contractor regulated under part I of chapter 489, and each electrical contractor and alarm system contractor regulated under part II of chapter 489, who contracts to perform construction work under a state contract for educational facilities governed by chapter 1013 235, for public property or publicly owned buildings governed by chapter 255, or for state correctional facilities governed by chapter 944 shall implement a drug-free workplace program under this section.

Reviser's note.—Subsection (3) is amended to delete language which appeared without coding after floor amendment in C.S. for H.B. 1643 (ch. 2002-194, Laws of Florida), an apparent error. Subsection (15) is amended to conform to the repeal of chapter 235 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in chapter 1013 by ch. 2002-387.

Section 52. Paragraph (b) of subsection (3) of section 440.15, Florida Statutes, is amended to read:

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

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(b) Supplemental benefits.—

1. All supplemental benefits must be paid in accordance with this subsection. An employee is entitled to supplemental benefits as provided in this paragraph as of the expiration of the impairment period, if:

a. The employee has an impairment rating from the compensable injury of 20 percent or more as determined pursuant to this chapter;

b. The employee has not returned to work or has returned to work earning less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment; and

c. The employee has in good faith attempted to obtain employment commensurate with the employee's ability to work.

2. If an employee is not entitled to supplemental benefits at the time of payment of the final weekly impairment income benefit because the employee is earning at least 80 percent of the employee's average weekly wage, the employee may become entitled to supplemental benefits at any time within 1 year after the impairment income benefit period ends if:

- a. The employee earns wages that are less than 80 percent of the employee's average weekly wage for a period of at least 90 days;
 - b. The employee meets the other requirements of subparagraph 1.; and
 - c. The employee's decrease in earnings is a direct result of the employee's impairment from the compensable injury.
3. If an employee earns wages that are at least 80 percent of the employee's average weekly wage for a period of at least 90 days during which the employee is receiving supplemental benefits, the employee ceases to be entitled to supplemental benefits for the filing period. Supplemental benefits that have been terminated shall be reinstated when the employee satisfies the conditions enumerated in subparagraph 2. and files the statement required under subparagraph 4 5. Notwithstanding any other provision, if an employee is not entitled to supplemental benefits for 12 consecutive months, the employee ceases to be entitled to any additional income benefits for the compensable injury. If the employee is discharged within 12 months after losing entitlement under this subsection, benefits may be reinstated if the employee was discharged at that time with the intent to deprive the employee of supplemental benefits.
4. After the initial determination of supplemental benefits, the employee must file a statement with the carrier stating that the employee has earned less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment, stating the amount of wages the employee earned in the filing period, and stating that the employee has in good faith sought employment commensurate with the employee's ability to work. The statement must be filed quarterly on a form and in the manner prescribed by the department. The department may modify the filing period as appropriate to an individual case. Failure to file a statement relieves the carrier of liability for supplemental benefits for the period during which a statement is not filed.
5. The carrier shall begin payment of supplemental benefits not later than the seventh day after the expiration date of the impairment income benefit period and shall continue to timely pay those benefits. The carrier may request a mediation conference for the purpose of contesting the employee's entitlement to or the amount of supplemental income benefits.
6. Supplemental benefits are calculated quarterly and paid monthly. For purposes of calculating supplemental benefits, 80 percent of the employee's average weekly wage and the average wages the employee has earned per week are compared quarterly. For purposes of this paragraph, if the employee is offered a bona fide position of employment that the employee is capable of performing, given the physical condition of the employee and the geographic accessibility of the position, the employee's weekly wages are considered equivalent to the weekly wages for the position offered to the employee.
7. Supplemental benefits are payable at the rate of 80 percent of the difference between 80 percent of the employee's average weekly wage determined pursuant to s. 440.14 and the weekly wages the employee has earned

during the reporting period, not to exceed the maximum weekly income benefit under s. 440.12.

8. The department may by rule define terms that are necessary for the administration of this section and forms and procedures governing the method of payment of supplemental benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

Reviser's note.—Amended to conform to the deletion of former subparagraph (3)(b)4. by s. 28, ch. 2002-194, Laws of Florida, and the redesignation of the remaining subparagraphs to conform.

Section 53. Subsection (6) of section 440.20, Florida Statutes, is reenacted to read:

440.20 Time for payment of compensation; penalties for late payment.—

(6) If any installment of compensation for death or dependency benefits, disability, permanent impairment, or wage loss payable without an award is not paid within 7 days after it becomes due, as provided in subsection (2), subsection (3), or subsection (4), there shall be added to such unpaid installment a punitive penalty of an amount equal to 20 percent of the unpaid installment or \$5, which shall be paid at the same time as, but in addition to, such installment of compensation, unless notice is filed under subsection (4) or unless such nonpayment results from conditions over which the employer or carrier had no control. When any installment of compensation payable without an award has not been paid within 7 days after it became due and the claimant concludes the prosecution of the claim before a judge of compensation claims without having specifically claimed additional compensation in the nature of a penalty under this section, the claimant will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived the right to claim such penalty. However, during the course of a hearing, the judge of compensation claims shall on her or his own motion raise the question of whether such penalty should be awarded or excused. The department may assess without a hearing the punitive penalty against either the employer or the insurance carrier, depending upon who was at fault in causing the delay. The insurance policy cannot provide that this sum will be paid by the carrier if the department or the judge of compensation claims determines that the punitive penalty should be made by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee by check or, if authorized by the employee, by direct deposit into the employee's account at a financial institution. As used in this subsection, the term "financial institution" means a financial institution as defined in s. 655.005(1)(h).

Reviser's note.—Reenacted to confirm legislative intent to incorporate amendments by s. 17, ch. 2001-91, Laws of Florida, and s. 33, ch. 2002-194, Laws of Florida. The amendment to subsection (6) by s. 33, ch. 2002-194, failed to incorporate the changes by s. 17, ch. 2001-91. The subsection, as published here, gives full effect to both amendments.

Section 54. Paragraph (a) of subsection (1) of section 445.0121, Florida Statutes, is amended to read:

445.0121 Student eligibility requirements for initial awards.—

(1) To be eligible for an initial award for lower-division college credit courses that lead to a baccalaureate degree, as defined in s. 445.0122(5), a student must:

(a)1. Have been a resident of this state for no less than 3 years for purposes other than to obtain an education; or

2. Have received a standard Florida high school diploma, as provided in s. 1003.43, or its equivalent, as described in s. 1003.435 ~~229.814~~, unless:

a. The student is enrolled full-time in the early-admission program of an eligible postsecondary education institution or completes a home education program in accordance with s. 1002.41; or

b. The student earns a high school diploma from a non-Florida school while living with a parent or guardian who is on military or public service assignment outside this state.

Reviser's note.—Amended to conform to the repeal of s. 229.814 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1003.435 by s. 133, ch. 2002-387.

Section 55. Paragraph (e) of subsection (2) of section 467.0125, Florida Statutes, is amended to read:

467.0125 Licensure by endorsement.—

(2) The department may issue a temporary certificate to practice in areas of critical need to any midwife who is qualifying for licensure by endorsement under subsection (1), with the following restrictions:

(e) The department shall review the practice under a temporary certificate at least annually to ascertain that the minimum requirements of the midwifery rules promulgated under this chapter are being met. If ~~it is~~ determined that the minimum requirements are not being met, the department shall immediately revoke the temporary certificate.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation.

Section 56. Subsection (18) of section 470.002, Florida Statutes, is amended to read:

470.002 Definitions.—As used in this chapter:

(18) “Legally authorized person” means, in the priority listed, the decedent, when written inter vivos authorizations and directions are provided by the decedent, the surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined

in s. 741.28, a son or daughter who is 18 years of age or older, a parent, a brother or sister 18 years of age or over, a grandchild who is 18 years of age or older, or a grandparent; or any person in the next degree of kinship. In addition, the term may include, if no family exists or is available, the following: the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission or administrator acting under part II of chapter 406 245, or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as authorized person.

Reviser's note.—Amended to conform to the redesignation of chapter 245 as part II of chapter 406 by the reviser incident to compiling the 2002 Florida Statutes.

Section 57. Paragraph (c) of subsection (2) of section 470.019, Florida Statutes, is amended to read:

470.019 Disciplinary actions against direct disposers and direct disposal establishments.—

(2) The following shall be sufficient grounds for the penalties imposed under subsection (1):

(c) Having been disciplined by a regulatory agency in any jurisdiction for any offense that would constitute a violation of this chapter, ~~chapter 245~~, chapter 382, chapter 406, chapter 497, or chapter 872 or that directly relates to the practice of direct disposition.

Reviser's note.—Amended to conform to the redesignation of chapter 245 as part II of chapter 406 by the reviser incident to compiling the 2002 Florida Statutes.

Section 58. Paragraph (x) of subsection (1) of section 470.036, Florida Statutes, is amended to read:

470.036 Disciplinary proceedings.—

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

(x) Having been disciplined by a regulatory agency in any jurisdiction for any offense that would constitute a violation of this chapter, ~~chapter 245~~, chapter 382, chapter 406, chapter 497, or chapter 872 or that directly relates to the ability to practice under this chapter.

Reviser's note.—Amended to conform to the redesignation of chapter 245 as part II of chapter 406 by the reviser incident to compiling the 2002 Florida Statutes.

Section 59. Section 489.510, Florida Statutes, is amended to read:

489.510 Evidence of workers' compensation coverage.—Except as provided in s. 489.515(3)(b), any person, business organization, or qualifying agent engaged in the business of contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate or registration of the contractor, provide to the Electrical Contractors' Licensing Board, as provided by board rule, evidence of workers' compensation coverage pursuant to chapter 440. In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation may ~~shall~~ result from records furnished to the Division of Workers' Compensation by the persons or entities governed by this section or an investigation completed by the Division of Workers' Compensation. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine in the amount of \$500. The failure to maintain workers' compensation coverage as required by law shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate or registration of the contractor under the provisions of s. 489.533.

Reviser's note.—Amended to correct an apparent coding error and facilitate correct interpretation. The amendment by s. 18, ch. 2002-236, Laws of Florida, inserted the word “may” and inadvertently failed to delete the word “shall.”

Section 60. Subsection (8) of section 496.404, Florida Statutes, is amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(8) “Educational institutions” means those institutions and organizations described in s. 212.08(7)(cc)8.a. The term includes private nonprofit organizations, the purpose of which is to raise funds for schools teaching grades kindergarten through grade 12, colleges, and universities, including any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, any educational television or radio network or system established pursuant to s. 1001.25 ~~229.805~~ or s. 1001.26 ~~229.8051~~, and any nonprofit television or radio station that is a part of such network or system and that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term also includes a nonprofit educational cable consortium that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations that hold a valid consumer certificate

of exemption and that are either an educational institution as defined in this subsection or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

Reviser's note.—Amended to conform to the repeal of ss. 229.805 and 229.8051 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in ss. 1001.25 and 1001.26 by ss. 31 and 32, ch. 2002-387, respectively.

Section 61. Subsection (1) of section 499.033, Florida Statutes, is amended to read:

499.033 Ephedrine; prescription required.—Ephedrine is declared to be a prescription drug.

(1) Except as provided in this subsection (2), any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe medicinal drugs.

Reviser's note.—Amended to conform a cross-reference to context. Subsection (1) does not provide exceptions to the requirement of a prescription for dispensing of ephedrine; subsection (2) provides exemptions from the subsection (1) requirement.

Section 62. Subsection (2) of section 499.051, Florida Statutes, is amended to read:

499.051 Inspections and investigations.—

(2) In addition to the authority set forth in subsection (1), the department and any duly designated officer or employee of the department may enter and inspect any other establishment for the purpose of determining compliance with ss. 499.001-499.081 and rules adopted under those sections regarding any drug, device, or cosmetic product. ~~The authority to enter and inspect does not extend to the practice of the profession of pharmacy, as defined in chapter 465 and the rules adopted under that chapter, in a pharmacy permitted under chapter 465. The Department of Business and Professional Regulation shall conduct routine inspections of retail pharmacy wholesalers at the time of the regular pharmacy permit inspection and shall send the inspection report regarding drug wholesale activity to the Department of Health.~~

Reviser's note.—Amended to reflect that the Department of Business and Professional Regulation no longer enforces chapters 465 and 499. The Department of Health is now responsible for enforcement of those chapters.

Section 63. Subsection (3) of section 501.608, Florida Statutes, is amended to read:

501.608 License or affidavit of exemption; occupational license.—

(3) Failure to display a license or a copy of the affidavit of exemption is sufficient grounds for the department to issue an immediate cease and desist order, which shall act as an immediate final order under s. 120.569(2)(n). The order may ~~shall~~ remain in effect until the commercial telephone seller or a person claiming to be exempt shows the authorities that he or she is licensed or exempt. The department may order the business to cease operations and shall order the phones to be shut off. Failure of a salesperson to display a license may result in the salesperson being summarily ordered by the department to leave the office until he or she can produce a license for the department.

Reviser's note.—Amended to conform to the addition of the word “may” preceding the word “shall” by s. 2, ch. 93-235, Laws of Florida, and to improve clarity.

Section 64. Subsection (6) of section 507.05, Florida Statutes, is amended to read:

507.05 Estimates and contracts for service.—Prior to providing any moving or accessorial services, a contract and estimate must be provided to a prospective shipper in writing, must be signed and dated by the shipper and the mover, and must include:

(6) Acceptable forms of payment. A mover shall accept a minimum of two of the three following forms of payment:

(a) Cash, cashier's check, money order, or traveler's check;

(b) Valid personal check, showing upon its face the name and address of the shipper or authorized representative; or

(c) Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

A mover shall clearly and conspicuously disclose to the shipper in the estimate and contract for services the forms of payments the mover ~~it~~ will accept from those categories described in paragraphs (a)-(c).

Reviser's note.—Amended to improve clarity and sentence construction.

Section 65. Subsection (20) of section 517.12, Florida Statutes, is amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

(20) The registration requirements of this section do not apply to individuals licensed under s. ~~626.015(7)~~ ~~626.041~~ ~~or its successor statute~~, or ~~(12) s. 626.051~~ ~~or its successor statute~~, for the sale of a security as defined in s. 517.021(19)(g), if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection shall constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Reviser's note.—Amended to replace references to s. 626.041 or s. 626.051, which were repealed by s. 72, ch. 2002-206, Laws of Florida, with references to s. 626.015(7) or (12), respectively, the replacement provisions for ss. 626.041 and 626.051.

Section 66. Paragraph (b) of subsection (1) and paragraph (e) of subsection (8) of section 553.73, Florida Statutes, are amended to read:

553.73 Florida Building Code.—

(1)

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II ~~∇~~ shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II ~~∇~~.

(8) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II ~~∇~~ relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

Reviser's note.—Amended to conform to the repeal of the provisions comprising former parts I-III by s. 68, ch. 98-287, Laws of Florida, as amended by s. 108, ch. 2000-141, Laws of Florida, as amended by s. 39, ch. 2001-186, Laws of Florida, and as amended by s. 8, ch. 2001-372, Laws of Florida.

Section 67. Subsection (4) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—

(4) This section does not apply to a person who gives, serves, or permits to be served an alcoholic beverage to a student who is at least 18 years of age, if the alcoholic beverage is delivered as part of the student's required curriculum at a postsecondary educational institution that is institutionally accredited by an agency recognized by the United States Department of Education and is licensed or exempt from licensure pursuant to the provisions of chapter 1005 246 or that is a public postsecondary education institution; if the student is enrolled in the college and is required to taste alcoholic beverages that are provided only for instructional purposes during classes conducted under the supervision of authorized instructional personnel pursuant to such a curriculum; if the alcoholic beverages are never offered for consumption or imbibed by such a student and at all times remain in the possession and control of such instructional personnel, who must be 21 years of age or older; and if each participating student executes a waiver and consent in favor of the state and indemnifies the state and holds it harmless.

Reviser's note.—Amended to conform to the repeal of the sections comprising chapter 246 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in chapter 1005 by ch. 2002-387.

Section 68. Subsection (2) of section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 prohibited.—

(2) The prohibition in this section against the possession of alcoholic beverages does not apply to the tasting of alcoholic beverages by a student who is at least 18 years of age, who is tasting the alcoholic beverages as part of the student's required curriculum at a postsecondary educational institution that is institutionally accredited by an agency recognized by the United States Department of Education and that is licensed or exempt from licensure pursuant to the provisions of chapter 1005 246 or is a public postsecondary education institution; if the student is enrolled in the college and is tasting the alcoholic beverages only for instructional purposes during classes that are part of such a curriculum; if the student is allowed only to taste, but not consume or imbibe, the alcoholic beverages; and if the alcoholic beverages at all times remain in the possession and control of authorized instructional personnel of the college who are 21 years of age or older.

Reviser's note.—Amended to conform to the repeal of the sections comprising chapter 246 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in chapter 1005 by ch. 2002-387.

Section 69. Section 624.04, Florida Statutes, is amended to read:

624.04 "Person" defined.—"Person" includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation,

agent, general agent, broker, ~~solicitor~~, service representative, adjuster, and every legal entity.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 70. Subsection (2) of section 624.303, Florida Statutes, is amended to read:

624.303 Seal; certified copies as evidence.—

(2) All certificates executed by the department, other than licenses of agents, ~~solicitors~~, or adjusters or similar licenses or permits, shall bear its seal.

Reviser's note.—Amended to delete a reference to “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 71. Paragraph (a) of subsection (2) of section 624.313, Florida Statutes, is amended to read:

624.313 Publications.—

(2) The department may prepare and have printed and published in pamphlet or book form the following:

(a) As needed, questions and answers for the use of persons applying for an examination for licensing as agents ~~or solicitors~~ for property, casualty, surety, health, and miscellaneous insurers.

Reviser's note.—Amended to delete a reference to “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 72. Subsection (2) of section 624.317, Florida Statutes, is amended to read:

624.317 Investigation of agents, adjusters, administrators, service companies, and others.—If it has reason to believe that any person has violated or is violating any provision of this code, or upon the written complaint signed by any interested person indicating that any such violation may exist, the department shall conduct such investigation as it deems necessary of the accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of any:

(2) Insurance agent ~~or~~, customer representative, ~~or solicitor~~, subject to the requirements of s. 626.601.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 73. Paragraph (b) of subsection (6) and paragraph (c) of subsection (19) of section 624.501, Florida Statutes, are amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(b) ~~Solicitor's~~ or Customer representative's original appointment and biennial renewal or continuation thereof:

Appointment fee	\$42.00
State tax	12.00
County tax	6.00
Total	\$60.00

(19) Miscellaneous services:

(c) For preparing lists of agents, ~~solicitors~~, adjusters, and other insurance representatives, and for other miscellaneous services, such reasonable charge as may be fixed by the department.

Reviser's note.—Amended to delete references to “[s]olicitor’s” and “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 74. Section 624.504, Florida Statutes, is amended to read:

624.504 Liability for state, county tax.—

(1) Each authorized insurer that uses insurance agents in this state shall be liable for and shall pay the state and county taxes required therefor under s. 624.501 or s. 624.505.

~~(2) Each insurance agent in this state that uses solicitors shall be liable for and shall pay the state and county taxes required therefor under s. 624.501.~~

Reviser's note.—Amended to delete a provision relating to solicitors to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 75. Subsection (1) of section 624.521, Florida Statutes, is amended to read:

624.521 Deposit of certain tax receipts; refund of improper payments.—

(1) The Department of Insurance shall promptly deposit in the State Treasury to the credit of the Insurance Commissioner's Regulatory Trust Fund all “state tax” portions of agents' ~~and solicitors'~~ licenses collected under s. 624.501 necessary to fund the Division of Insurance Fraud. The

balance of the tax shall be credited to the General Fund. All moneys received by the Department of Insurance not in accordance with the provisions of this code or not in the exact amount as specified by the applicable provisions of this code shall be returned to the remitter. The records of the department shall show the date and reason for such return.

Reviser's note.—Amended to delete a reference to “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 76. Paragraph (1) of subsection (1) of section 624.523, Florida Statutes, is amended to read:

624.523 Insurance Commissioner's Regulatory Trust Fund.—

(1) There is created in the State Treasury a trust fund designated “Insurance Commissioner's Regulatory Trust Fund” to which shall be credited all payments received on account of the following items:

(1) All sums received under s. 648.27 (bail bond agent, limited surety agent, continuation fee), the “appointment fee” portion of any license or permit provided for under s. 648.31, and the application fees provided for under s. ss. 648.34(3) and 648.37(3).

Reviser's note.—Amended to conform to the repeal of s. 648.37 by s. 31, ch. 2002-260, Laws of Florida.

Section 77. Subsection (1) of section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, ~~solicitors~~, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply as to reinsurance, except that ss. 626.011-626.031, ss. 626.102-626.181, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall apply as to reinsurance intermediaries as defined in s. 626.7492.

(b) The applicability of this chapter as to fraternal benefit societies shall be as provided in chapter 632.

(c) It does not apply to a bail bond agent, as defined in s. 648.25, except as provided in chapter 648 or chapter 903.

(d) This part does not apply to a certified public accountant licensed under chapter 473 who is acting within the scope of the practice of public accounting, as defined in s. 473.302, provided that the activities of the certified public accountant are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed, and provided that the certified public accountant does not di-

rectly or indirectly receive or share in any commission or, referral fee, ~~or solicitor's fee~~.

Reviser's note.—Amended to delete references to “solicitors” and to “solicitor's fee” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 78. Paragraph (a) of subsection (7) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(7)(a) No individual, firm, partnership, corporation, association, or any other entity shall act in its own name or under a trade name, directly or indirectly, as an insurance agency, when required to be licensed by this subsection, unless it complies with s. 626.172 with respect to possessing an insurance agency license for each place of business at which it engages in any activity which may be performed only by a licensed insurance agent ~~or solicitor~~.

Reviser's note.—Amended to delete one remaining reference to “solicitor” to conform to the deletion of references to solicitors from other portions of s. 626.112 by ss. 8 and 48, ch. 2002-206, Laws of Florida, and to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206.

Section 79. Section 626.266, Florida Statutes, is amended to read:

626.266 Printing of examinations or related materials to preserve examination security.—A contract let for the development, administration, or grading of examinations or related materials by the Department of Insurance pursuant to the various agent, customer representative, ~~solicitor~~, or adjuster licensing and examination provisions of this code may include the printing or furnishing of these examinations or related materials in order to preserve security. Any such contract shall be let as a contract for a contractual service pursuant to s. 287.057.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 80. Paragraphs (a) and (e) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), (e), and (i), a license as agent authorized to transact a limited class of business in any of the following categories:

(a) Motor vehicle physical damage and mechanical breakdown insurance.—License covering insurance against only the loss of or damage to any

motor vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any function for which it was designed. The applicant for such a license shall pass a written examination covering motor vehicle physical damage insurance and mechanical breakdown insurance. No individual while so licensed shall hold a license as an agent or ~~solicitor~~ as to any other or additional kind or class of insurance coverage except as to a limited license for credit life and disability insurances as provided in paragraph (e).

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, to an individual employed by or associated with a lending or financial institution or creditor, or to a lending or financial institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or ~~solicitor~~ as to any other or additional kind or class of life or health insurance coverage. An entity holding a limited license under this paragraph is also authorized to sell credit insurance and credit property insurance. An entity applying for a license under this section:

1. Is required to submit only one application for a license under s. 626.171. The requirements of s. 626.171(5) shall only apply to the officers and directors of the entity submitting the application.

2. Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified form developed by rule of the department for this purpose.

3. Is not required to pay any additional application fees for a license issued to the offices or places of business referenced in subsection (2), but is required to pay the license fee as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. The license obtained under this paragraph shall be posted at the business location for which it was issued so as to be readily visible to prospective purchasers of such coverage.

Reviser's note.—Amended to delete remaining references to "solicitor" to conform to the deletion of references to solicitors from other portions of s. 626.321 by ss. 16 and 53, ch. 2002-206, Laws of Florida, and to conform to the repeal of s. 626.071, which defined "solicitor," by s. 72, ch. 2002-206.

Section 81. Section 626.461, Florida Statutes, is amended to read:

626.461 Continuation of appointment of agent or other representative.—Subject to renewal or continuation by the appointing entity, the appointment of the agent, adjuster, ~~solicitor~~, service representative, customer repre-

sentative, or managing general agent shall continue in effect until the person's license is revoked or otherwise terminated, unless written notice of earlier termination of the appointment is filed with the department by either the appointing entity or the appointee.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 82. Section 626.733, Florida Statutes, is amended to read:

626.733 Agency firms and corporations; special requirements.—If a sole proprietorship, partnership, corporation, or association holds an agency contract, all members thereof who solicit, negotiate, or effect insurance contracts, and all officers and stockholders of the corporation who solicit, negotiate, or effect insurance contracts, are required to qualify and be licensed individually as agents, ~~solicitors~~, or customer representatives; and all of such agents must be individually appointed as to each property and casualty insurer entering into an agency contract with such agency. Each such appointing insurer as soon as known to it shall comply with this section and shall determine and require that each agent so associated in or so connected with such agency is likewise appointed as to the same such insurer and for the same type and class of license. However, no insurer is required to comply with the provisions of this section if such insurer satisfactorily demonstrates to the department that the insurer has issued an aggregate net written premium, in an agency, in an amount of \$25,000 or less.

Reviser's note.—Amended to delete a reference to “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 83. Subsection (2) of section 626.7354, Florida Statutes, is amended to read:

626.7354 Customer representative's powers; agent's or agency's responsibility.—

(2) A customer representative may engage in transacting insurance with customers who have been solicited by any agent, ~~solicitor~~, or customer representative in the same agency, and may engage in transacting insurance with customers who have not been so solicited to the extent and under conditions that are otherwise consistent with this part and with the insurer's contract with the agent appointing him or her.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 84. Subsection (3) of section 626.741, Florida Statutes, is amended to read:

626.741 Nonresident agents; licensing and restrictions.—

(3) The department shall not, however, issue any license and appointment to any nonresident who has an office or place of business in this state, or who has any direct or indirect pecuniary interest in any insurance agent ~~or~~; insurance agency, ~~or in any solicitor~~ licensed as a resident of this state; nor to any individual who does not, at the time of issuance and throughout the existence of the Florida license, hold a license as agent or broker issued by his or her home state; nor to any individual who is employed by any insurer as a service representative or who is a managing general agent in any state, whether or not also licensed in another state as an agent or broker. The foregoing requirement to hold a similar license in the applicant's home state does not apply to customer representatives unless the home state licenses residents of that state in a similar manner. The prohibition against having an office or place of business in this state does not apply to customer representatives who are required to conduct business solely within the confines of the office of a licensed and appointed Florida resident general lines agent in this state. The authority of such nonresident license is limited to the specific lines of authority granted in the license issued by the agent's home state and further limited to the specific lines authorized under the nonresident license issued by this state. The department shall have discretion to refuse to issue any license or appointment to a nonresident when it has reason to believe that the applicant by ruse or subterfuge is attempting to avoid the intent and prohibitions contained in this subsection or to believe that any of the grounds exist as for suspension or revocation of license as set forth in ss. 626.611 and 626.621.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 85. Paragraph (a) of subsection (1) of section 626.753, Florida Statutes, is amended to read:

626.753 Sharing commissions; penalty.—

(1)(a) An agent may divide or share in commissions only with ~~his or her own employed solicitors and with~~ other agents appointed and licensed to write the same kind or kinds of insurance.

Reviser's note.—Amended to delete a reference to an insurance agent's “own employed solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 86. Subsection (2) of section 626.829, Florida Statutes, is amended to read:

626.829 “Health agent” defined.—

(2) Any person who acts for an insurer, or on behalf of a licensed representative of an insurer, to solicit applications for or to negotiate and effectuate health insurance contracts, whether or not he or she is appointed as an agent, subagent, ~~solicitor~~, or canvasser or by any other title, shall be deemed to be a health agent and shall be qualified, licensed, and appointed as a health agent.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 87. Subsection (5) of section 626.852, Florida Statutes, is amended to read:

626.852 Scope of this part.—

(5) This part does not apply to any employee or agent of a state university board of trustees providing services in support of any self-insurance program created under former s. 240.213 or s. 1004.24.

Reviser's note.—Amended to conform to the repeal of s. 240.213 by s. 1058, ch. 2002-387, Laws of Florida.

Section 88. Paragraph (h) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(h) Unlawful rebates.—

1. Except as otherwise expressly provided by law, or in an applicable filing with the department, knowingly:

a. Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon;

b. Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance contract, any unlawful rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract;

c. Giving, selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance contract or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the insurance contract.

2. Nothing in paragraph (g) or subparagraph 1. of this paragraph shall be construed as including within the definition of discrimination or unlawful rebates:

a. In the case of any contract of life insurance or life annuity, paying bonuses to all policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance;

provided that any such bonuses or abatement of premiums is fair and equitable to all policyholders and for the best interests of the company and its policyholders.

b. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses.

c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

d. Issuance of life insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, as group insurance or employee insurance as defined in this code.

e. Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check, payroll deduction, or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

3.a. No title insurer, or any member, employee, attorney, agent, or agency, ~~or solicitor~~ thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the agent's, agency's, or title insurer's share of the premium or any charge for related title services below the cost for providing such services, or provide any special favor or advantage, or any monetary consideration or inducement whatever. Nothing herein contained shall preclude an abatement in an attorney's fee charged for legal services.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of said charge, or any monetary consideration or inducement, other than as set forth in sub-subparagraph b.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the deletion of references to solicitors from other portions of s. 626.9541 by s. 65, ch. 2002-206, Laws of Florida, and to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206.

Section 89. Section 627.3111, Florida Statutes, is amended to read:

627.3111 Public records exemption.—All bank account numbers and debit, charge, and credit card numbers, and all other personal financial and health information of a consumer held by the Department of Insurance or its service providers or agents, relating to a consumer's complaint or inquiry regarding a matter or activity regulated under the Florida Insurance Code, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For the purpose of this section, the term "consumer" includes but is not limited to a prospective purchaser, purchaser, or beneficiary of, or applicant for, any product or service regulated under the Florida Insurance Code, and a family member or dependent of a consumer, a subscriber under a group policy, or a policyholder. This information shall be redacted from records that contain nonexempt information prior to disclosure. This exemption applies to information made confidential and exempt by this section held by the Department of Insurance or its service providers or agents before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. The receiving governmental entity and the association must maintain the confidential and exempt status of such information. The information made confidential and exempt by this section may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This exemption does not include the name and address of an inquirer or complainant to the department or the name of an insurer or other regulated entity which is the subject of the inquiry or ~~of~~ complaint. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to improve clarity and provide contextual consistency.

Section 90. Paragraphs (j), (k), and (r) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(j) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(10). The corporation is not subject to the procurement provisions of

chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the department, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments pledged by the Florida Insurance Guaranty Association to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any bonds issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter ~~220~~ 200 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

(k) Upon a determination by the department that the conditions giving rise to the establishment and activation of the corporation no longer exist, the corporation is dissolved. Upon dissolution, the assets of the corporation ~~association~~ shall be applied first to pay all debts, liabilities, and obligations of the corporation, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the corporation shall become property of the state and shall be ~~deposited in~~ the Florida Hurricane Catastrophe Fund. However, no dissolution shall take effect as long as the corporation has bonds or other financial obligations outstanding unless adequate provision has been made for the payment of the bonds or other financial obligations pursuant to the documents authorizing the issuance of the bonds or other financial obligations.

(r) The corporation shall not require the securing of flood insurance as a condition of coverage if the insured or applicant executes a form approved by the department affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured in addition to coverage by the corporation, the risk will not be covered for flood damage. A corporation policyholder electing not to secure flood insurance and executing a form as provided herein making a claim ~~elan~~ for water damage against the corporation shall have the burden of proving the damage was not caused by flooding. Notwithstanding other provisions of this subsection, the corporation may deny coverage to an applicant or insured who refuses to execute the form described herein.

Reviser's note.—Paragraph (6)(j) is amended to correct a cross-reference and conform to context; chapter 200 does not impose a tax on interest, income, or profits on debt obligations owned by corporations, but chapter 220 does. Paragraph (6)(k) is amended to substitute a reference to the “corporation” for a reference to the “association” to conform to that change made elsewhere by s. 2, ch. 2002-240, Laws of Florida, and s. 11, ch. 2002-282,

Laws of Florida. The paragraph is also amended to improve clarity and sentence construction. Paragraph (6)(r) is amended to correct an apparent error and conform to context.

Section 91. Subsection (3) of section 628.255, Florida Statutes, is amended to read:

628.255 Person with effective control cannot receive commission unless contract approved; penalties.—

(3) For the purposes of this section, “effective control” means ownership of 10 percent or more of company stock or receipt of \$25,000 or more cumulatively in compensation in 1 calendar year other than commissions resulting from insurance business produced by an agent ~~or solicitor~~.

Reviser’s note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 92. Subsection (2) of section 631.111, Florida Statutes, is amended to read:

631.111 Order of liquidation; domestic insurers.—

(2) The order of liquidation shall authorize and direct the department to take immediate possession of all the property, assets, and estate, including, but not limited to, all offices maintained by the insurer and all rights of action, books, documents, papers, evidences of debt, and all other property of every kind whatsoever and wheresoever located belonging to the insurer, including, but not limited to, all bank accounts, stocks, bonds, debentures, mortgages, all premiums collected by premium finance companies or any person otherwise engaged in premium financing, agents, subagents, producing agents, brokers, ~~solicitors~~, service representatives, or others and not paid to the insurer, furniture, fixtures, equipment, office supplies, and all real property of the insurer and to hold all such assets pending further orders of the court.

Reviser’s note.—Amended to delete a reference to “solicitors” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 93. Subsection (7) of section 633.01, Florida Statutes, is amended to read:

633.01 State Fire Marshal; powers and duties; rules.—

(7) The State Fire Marshal shall adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary facilities pursuant to ss. 633.022, 1013.12, 1013.37, and 1013.371 ~~235.06~~, and ~~235.26~~. In addition, in any county that does not employ or appoint a local fire official, the State Fire Marshal shall assume the duties of the local fire official with respect to firesafety inspections of educational property required under s. 1013.12(2)(b) ~~235.06(2)(b)~~, and the State Fire Marshal may take necessary corrective action as authorized under s. 1013.12(5) ~~235.06(4)~~.

Reviser's note.—Amended to conform to the repeal of ss. 235.06 and 235.26 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in ss. 1013.12, 1013.37, and 1013.371, by ss. 805, 834, and 835, ch. 2002-387, respectively.

Section 94. Section 634.171, Florida Statutes, is amended to read:

634.171 Salesperson to be licensed and appointed.—Salespersons for motor vehicle service agreement companies and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general. However, they shall be exempt from all other provisions of chapter 626 including fingerprinting, photo identification, education, and examination provisions. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed salesperson shall be directly responsible and accountable for all acts of her or his employees and other representatives. Each service agreement company or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment, notify the department of such termination. No employee or salesperson of a motor vehicle service agreement company or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent ~~or solicitor~~, unless so qualified, licensed, and appointed therefor under the Florida Insurance Code. A motor vehicle service agreement company is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the motor vehicle service agreements issued by the motor vehicle service agreement company.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 95. Section 634.420, Florida Statutes, is amended to read:

634.420 License and appointment of sales representatives.—Sales representatives for service warranty associations or insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in accordance with procedures as prescribed in chapter 626 for insurance representatives in general. However, they shall be exempt from all other provisions of chapter 626, including fingerprinting, photo identification, education, and examination. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensed sales representative's employees or other representatives. Each service warranty association or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment, notify the department of such termination. No employee or sales representative of a service warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent ~~or solicitor~~, unless so qualified, licensed, and appointed therefor under the insurance code.

Reviser's note.—Amended to delete a reference to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 96. Paragraph (a) of subsection (15) of section 641.35, Florida Statutes, is amended to read:

641.35 Assets, liabilities, and investments.—

(15) INVESTMENT OF EXCESS FUNDS.—

(a) After satisfying the requirements of this part, any funds of a health maintenance organization in excess of its statutorily required reserves and surplus may be invested:

1. Without limitation in any investments otherwise authorized by this part; or

2. In such other investments not specifically authorized by this part, provided such investments do not exceed the lesser of 5 percent of the health maintenance organization's admitted assets or 25 percent of the amount by which a health maintenance organization's surplus exceeds its statutorily required minimum surplus. A health maintenance organization may exceed the limitations of this subparagraph only with the prior written approval of the department.

Reviser's note.—Amended to improve clarity and sentence construction.

Section 97. Section 642.034, Florida Statutes, is amended to read:

642.034 License and appointment required.—No person may solicit, negotiate, sell, or execute legal expense insurance contracts on behalf of an insurer in this state unless such person is licensed and appointed as a sales representative or is licensed and appointed under the insurance code as a general lines agent ~~or solicitor~~. No person licensed and appointed as a legal expense insurance sales representative may solicit, negotiate, sell, or execute any other contract of insurance unless such person is duly licensed and appointed to do so under the provisions of chapter 626.

Reviser's note.—Amended to delete a reference to "solicitor" to conform to the repeal of s. 626.071, which defined "solicitor," by s. 72, ch. 2002-206, Laws of Florida.

Section 98. Section 642.036, Florida Statutes, is amended to read:

642.036 Sales representatives to be licensed and appointed.—Sales representatives of legal expense insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501. No employee or sales representative of an insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent ~~or solicitor~~, unless so qualified, licensed, and appointed therefor under the insurance code.

Reviser's note.—Amended to delete a reference to "solicitor" to conform to the repeal of s. 626.071, which defined "solicitor," by s. 72, ch. 2002-206, Laws of Florida.

Section 99. Subsection (2) of section 642.045, Florida Statutes, is amended to read:

642.045 Procedure for refusal, suspension, or revocation of license and appointment of sales representative; departmental action upon violation by licensed insurance agent ~~or solicitor~~.—

(2) Whenever it appears that any licensed insurance agent ~~or solicitor~~ has violated the provisions of ss. 642.011-642.049, or if any grounds listed in s. 642.041 or s. 642.043 exist as to such agent ~~or solicitor~~, the department may take such action as is authorized by the insurance code for a violation of the insurance code by such agent ~~or solicitor~~, or such action as is authorized by this chapter for a violation of this chapter by a sales representative.

Reviser's note.—Amended to delete references to “solicitor” to conform to the repeal of s. 626.071, which defined “solicitor,” by s. 72, ch. 2002-206, Laws of Florida.

Section 100. Paragraph (g) of subsection (1) of section 648.355, Florida Statutes, is amended to read:

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination.—

(1) The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:

(g) The applicant must file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage as a temporary licensee.

Reviser's note.—Amended to improve clarity and conform to context.

Section 101. Paragraph (b) of subsection (2) of section 679.703, Florida Statutes, is amended to read:

679.703 Security interest perfected before effective date.—

(2) Except as otherwise provided in s. 679.705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person who becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(b) Remains enforceable thereafter only if the security interest becomes enforceable under former s. 679.203 before the year expires; and

Reviser's note.—Amended to conform to the repeal of s. 679.203 by s. 2, ch. 2001-198, Laws of Florida.

Section 102. Subsection (2) of section 679.704, Florida Statutes, is amended to read:

679.704 Security interest unperfected before effective date.—A security interest that is enforceable immediately before this act takes effect but that would be subordinate to the rights of a person who becomes a lien creditor at that time:

(2) Remains enforceable thereafter if the security interest becomes enforceable under former s. 679.203 when this act takes effect or within 1 year thereafter; and

Reviser's note.—Amended to conform to the repeal of s. 679.203 by s. 2, ch. 2001-198, Laws of Florida.

Section 103. Subsection (2) of section 765.5216, Florida Statutes, is amended to read:

765.5216 Organ and tissue donor education panel.—

(2) There is created within the Agency for Health Care Administration a statewide organ and tissue donor education panel, consisting of 12 members, to represent the interests of the public with regard to increasing the number of organ and tissue donors within the state. The panel and the Organ and Tissue Procurement and Transplantation Advisory Board established in s. ~~765.543~~ ~~381.6023~~ shall jointly develop, subject to the approval of the Agency for Health Care Administration, education initiatives pursuant to s. 765.5215, which the agency shall implement. The membership must be balanced with respect to gender, ethnicity, and other demographic characteristics so that the appointees reflect the diversity of the population of this state. The panel members must include:

(a) A representative from the Agency for Health Care Administration, who shall serve as chairperson of the panel.

(b) A representative from a Florida licensed organ procurement organization.

(c) A representative from a Florida licensed tissue bank.

(d) A representative from a Florida licensed eye bank.

(e) A representative from a Florida licensed hospital.

(f) A representative from the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles, who possesses experience and knowledge in dealing with the public.

(g) A representative from the family of an organ, tissue, or eye donor.

(h) A representative who has been the recipient of a transplanted organ, tissue, or eye, or is a family member of a recipient.

(i) A representative who is a minority person as defined in former s. 381.81.

(j) A representative from a professional association or public relations or advertising organization.

- (k) A representative from a community service club or organization.
- (l) A representative from the Department of Education.

Reviser's note.—Amended to conform a cross-reference to s. 381.6023 to the transfer of that section to s. 765.543 by this act.

Section 104. Subsection (5) of section 765.522, Florida Statutes, is amended to read:

765.522 Duty of certain hospital administrators; liability of hospital administrators, organ procurement organizations, eye banks, and tissue banks.—

(5) There shall be no civil or criminal liability against any organ procurement organization, eye bank, or tissue bank certified under s. 765.542 ~~381.6022~~, or against any hospital or hospital administrator or designee, when complying with the provisions of this part and the rules of the Agency for Health Care Administration or when, in the exercise of reasonable care, a request for organ donation is inappropriate and the gift is not made according to this part and the rules of the Agency for Health Care Administration.

Reviser's note.—Amended to conform a cross-reference to s. 381.6022 to the transfer of that section to s. 765.542 by this act.

Section 105. Section 768.16, Florida Statutes, is amended to read:

768.16 Wrongful Death Act.—Sections 768.16-768.26 ~~768.16-768.27~~ may be cited as the "Florida Wrongful Death Act."

Reviser's note.—Amended to conform to the repeal of s. 768.27 by s. 3, ch. 2000-341, Laws of Florida.

Section 106. Section 768.17, Florida Statutes, is amended to read:

768.17 Legislative intent.—It is the public policy of the state to shift the losses resulting when wrongful death occurs from the survivors of the decedent to the wrongdoer. Sections 768.16-768.26 ~~768.16-768.27~~ are remedial and shall be liberally construed.

Reviser's note.—Amended to conform to the repeal of s. 768.27 by s. 3, ch. 2000-341, Laws of Florida.

Section 107. Section 768.18, Florida Statutes, is amended to read:

768.18 Definitions.—As used in ss. 768.16-768.26 ~~768.16-768.27~~:

(1) "Survivors" means the decedent's spouse, children, parents, and, when partly or wholly dependent on the decedent for support or services, any blood relatives and adoptive brothers and sisters. It includes the child born out of wedlock of a mother, but not the child born out of wedlock of the father unless the father has recognized a responsibility for the child's support.

(2) “Minor children” means children under 25 years of age, notwithstanding the age of majority.

(3) “Support” includes contributions in kind as well as money.

(4) “Services” means tasks, usually of a household nature, regularly performed by the decedent that will be a necessary expense to the survivors of the decedent. These services may vary according to the identity of the decedent and survivor and shall be determined under the particular facts of each case.

(5) “Net accumulations” means the part of the decedent’s expected net business or salary income, including pension benefits, that the decedent probably would have retained as savings and left as part of her or his estate if the decedent had lived her or his normal life expectancy. “Net business or salary income” is the part of the decedent’s probable gross income after taxes, excluding income from investments continuing beyond death, that remains after deducting the decedent’s personal expenses and support of survivors, excluding contributions in kind.

Reviser’s note.—Amended to conform to the repeal of s. 768.27 by s. 3, ch. 2000-341, Laws of Florida.

Section 108. Paragraph (h) of subsection (2) of section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(2) The Department of Agriculture and Consumer Services shall issue a license if the applicant:

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services ~~Department of State~~;

4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or

7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm;

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The Division of Licensing of the Department of State was transferred to the Department of Agriculture and Consumer Services and reestablished as a division within that department by s. 1, ch. 2002-295, Laws of Florida.

Section 109. Paragraph (a) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
(a) LEVEL 1		
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.

Florida Statute	Felony Degree	Description
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
322.212(5)(a)	3rd	False application for driver's license or identification card.
<u>370.13(2)(c)1.</u> 370.13(3)(a)	3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
370.135(1)	3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
372.663(1)	3rd	Poach any alligator or crocodilia.
414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
826.01	3rd	Bigamy.

Florida Statute	Felony Degree	Description
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
832.05 (2)(b)&(4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
838.015(3)	3rd	Bribery.
838.016(1)	3rd	Public servant receiving unlawful compensation.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
849.01	3rd	Keeping gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 370.13(3)(a) no longer exists. Section 370.13 was substantially reworded by s. 38, ch. 2000-364, Laws of Florida, and material similar to the contents of former s. 370.13(3)(a) can now be found at s. 370.13(2)(c)1.

Section 110. Paragraph (a) of subsection (1) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

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

(a) “Accredited college, university, or community college” means a college, university, or community college which has been accredited by the Southern Association of Colleges and Schools, another regional accrediting agency, or the Accrediting Council for Independent Colleges and Schools Accrediting Commission for Independent Colleges and Schools.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation and to conform to the correct name of the Accrediting Council for Independent Colleges and Schools.

Section 111. Section 943.66, Florida Statutes, is amended to read:

943.66 Rules; Facilities Program, Capitol Police; traffic regulation.—The Capitol Police may enforce rules of the Department of Management Services governing the administration, operation, and management of the Facilities Program and regulating traffic and parking at ~~on~~ state-owned buildings or on state-owned property and any local ordinance on the violation of such if such rules are not in conflict with any state law or county or municipal ordinance, and are not inconsistent with the other requirements of ss. 943.61-943.68 or any security plan developed and approved thereunder.

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

Section 112. Subsection (6) of section 945.355, Florida Statutes, is amended to read:

945.355 HIV testing of inmates prior to release.—

(6) Notwithstanding any provision of the Florida Statutes providing for a waiver of sovereign immunity, neither the state, its agencies, subdivisions nor employees of the state, its agencies, or subdivisions shall be liable to any person for negligently causing death or personal injury arising out of complying with this section ~~s. 944.355~~.

Reviser's note.—Amended to substitute a reference to s. 945.355 for a reference to s. 944.355, which does not exist. Reference to immunity for the referenced actions arising out of compliance with “this section” (s. 945.355) conforms to context.

Section 113. Paragraph (a) of subsection (5) of section 1000.01, Florida Statutes, is amended to read:

1000.01 The Florida K-20 education system; technical provisions.—

(5) EDUCATION GOVERNANCE TRANSFERS.—

(a) Effective July 1, 2001:

1. The Board of Regents is abolished.

2. All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Board of Regents are transferred by a type two transfer, pursuant to s. 20.06(2), to the State Florida Board of Education.

3. The State Board of Community Colleges is abolished.

4. All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the State Board of Community Colleges are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the State Florida Board of Education.

5. The Postsecondary Education Planning Commission is abolished.

6. The Council for Education Policy Research and Improvement is created as an independent office under the Office of Legislative Services.

7. All personnel, unexpended balances of appropriations, and allocations of the Postsecondary Education Planning Commission are transferred to the Council for Education Policy Research and Improvement.

8. The Articulation Coordinating Committee and the Education Standards Commission are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the State Florida Board of Education.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 229.004, which established the Florida Board of Education, was repealed by s. 1058, ch. 2002-387, Laws of Florida. Section 19, ch. 2002-387, established the State Board of Education.

Section 114. Section 1004.07, Florida Statutes, is amended to read:

1004.07 Student withdrawal from courses due to military service; effect.—Each district school board, community college district board of trustees, and university board of trustees shall establish, by rule and pursuant to guidelines of the State Florida Board of Education, policies regarding currently enrolled students who are called to, or enlist in, active military service. Such policies shall provide that any student enrolled in a postsecondary course or courses at an area technical center, a public community college, a public college, or a state university shall not incur academic or financial penalties by virtue of performing military service on behalf of our country. Such student shall be permitted the option of either completing the

course or courses at a later date without penalty or withdrawing from the course or courses with a full refund of fees paid. If the student chooses to withdraw, the student's record shall reflect that the withdrawal is due to active military service.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 229.004, which established the Florida Board of Education, was repealed by s. 1058, ch. 2002-387, Laws of Florida. Section 19, ch. 2002-387, established the State Board of Education.

Section 115. Subsection (7) of section 1004.22, Florida Statutes, is amended to read:

1004.22 Divisions of sponsored research at state universities.—

(7) All purchases of a division of sponsored research shall be made in accordance with the policies and procedures of the university; however, upon certification addressed to the university president that it is necessary for the efficient or expeditious prosecution of a research project, the president may exempt the purchase of material, supplies, equipment, or services for research purposes ~~shall be exempt~~ from the general purchasing requirement of the Florida Statutes.

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

Section 116. Subsection (3) of section 1004.32, Florida Statutes, is amended to read:

1004.32 New College of Florida.—

(3) BOARD OF TRUSTEES.—The Governor shall appoint 12 members to the Board of Trustees, to serve 4-year staggered terms, as follows:

- (a) Three residents of Sarasota County.
- (b) Two residents of Manatee County.

(c) Until the expiration date of the terms of office of the members who are on the board June 30, 2001, seven members selected from the Board of Trustees of the New College Foundation.

In addition, the student body president of New College of Florida elected pursuant to s. ~~1004.26~~ 240.236 shall serve ex officio as a voting member of the board of trustees.

Reviser's note.—Amended to conform to the renumbering of s. 240.236, created by s. 3, ch. 2002-188, Laws of Florida, as s. 1004.26 by the reviser to conform to the numbering scheme for provisions in the School Code per ch. 2002-387, Laws of Florida.

Section 117. Paragraph (j) of subsection (2) of section 1004.45, Florida Statutes, is amended to read:

1004.45 Ringling Center for Cultural Arts.—

(2)

(j) Notwithstanding any other provision of law, the John and Mable Ringling Museum of Art direct-support organization is eligible to match state funds in the Trust Fund for University Major Gifts Trust Fund established pursuant to s. 1011.94 as follows:

1. For the first \$1,353,750, matching shall be on the basis of 75 cents in state matching for each dollar of private funds.

2. For additional funds, matching shall be provided on the same basis as is authorized in s. 1011.94.

Reviser's note.—Amended to conform to the complete title of the fund as provided in s. 1011.94.

Section 118. Paragraph (b) of subsection (2) of section 1004.92, Florida Statutes, is amended to read:

1004.92 Purpose and responsibilities for career and technical education.—

(2)

(b) Department of Education accountability for career and technical education includes, but is not limited to:

1. The provision of timely, accurate technical assistance to school districts and community colleges.

2. The provision of timely, accurate information to the State Board of Education, the Legislature, and the public.

3. The development of policies, rules, and procedures that facilitate institutional attainment of the accountability standards and coordinate the efforts of all divisions within the department.

4. The development of program standards and industry-driven benchmarks for career and technical, adult, and community education programs, which must be updated every 3 years. The standards must include technical, academic, and workplace skills; viability of distance learning for instruction; and work/learn cycles that are responsive to business and industry.

5. Overseeing school district and community college compliance with the provisions of this chapter.

6. Ensuring that the educational outcomes for the technical component of career and technical programs ~~and~~ are uniform and designed to provide a graduate who is capable of entering the workforce on an equally competitive basis regardless of the institution of choice.

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

Section 119. Subsection (11) of section 1008.35, Florida Statutes, is amended to read:

1008.35 Best financial management practices for school districts; standards; reviews; designation of school districts.—

(11) District reviews conducted under this section must be completed within 6 months after commencement. OPPAGA shall issue a final report to the President of the Senate, the Speaker of the House of Representatives, and the district regarding the district's use of best financial management practices and cost savings recommendations within 60 days after completing the reviews. Copies of the final report shall be provided to the Governor, the Commissioner of Education, and to the chairs of school advisory councils and district advisory councils established pursuant to s. 1001.452(1)(a) and (b) ~~229.58(1)(a) and (b)~~. The district school board shall notify all members of the school advisory councils and district advisory council by mail that the final report has been delivered to the school district and to the council chairs. The notification shall also inform members of the OPPAGA website address at which an electronic copy of the report is available.

Reviser's note.—Amended to conform to the repeal of s. 229.58 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1001.452 by s. 59, ch. 2002-387.

Section 120. Paragraph (a) of subsection (1) and subsection (3) of section 1009.40, Florida Statutes, are amended to read:

1009.40 General requirements for student eligibility for state financial aid.—

(1)(a) The general requirements for eligibility of students for state financial aid awards consist of the following:

1. Achievement of the academic requirements of and acceptance at a state university or community college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college, university, or community college which is accredited by an accrediting agency recognized by the State Board of Education; any Florida institution the credits of which are acceptable for transfer to state universities; any technical center; or any private technical institution accredited by an accrediting agency recognized by the State Board of Education.

2. Residency in this state for no less than 1 year preceding the award of aid for a program established pursuant to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s. ~~1009.68~~ ~~1009.60~~, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, or s. 1009.89. Residency in this state must be for purposes other than to obtain an education. Resident status for purposes of receiving state financial aid awards shall be determined in the same manner as resident status for tuition purposes pursuant to s. 1009.21 and rules of the State Board of Education.

3. Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibil-

ity to receive state financial aid awards. Falsification of such information shall result in the denial of any pending application and revocation of any award currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards shall be guilty of a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards wrongfully obtained.

(3) Undergraduate students are ~~be~~ eligible to receive financial aid for a maximum of 8 semesters or 12 quarters. However, undergraduate students participating in college-preparatory instruction, students requiring additional time to complete the college-level communication and computation skills testing programs, or students enrolled in a 5-year undergraduate degree program are eligible to receive financial aid for a maximum of 10 semesters or 15 quarters.

Reviser's note.—Paragraph (1)(a) is amended to substitute for a duplicate reference to s. 1009.60. Inclusion of the cite to s. 1009.68 conforms the list of cited sections to the comparable list under prior law. Subsection (3) is amended to improve clarity and facilitate correct interpretation.

Section 121. Subsection (12) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(12) Students receiving a nursing scholarship pursuant to s. 1009.67 ~~240.4076~~ are not eligible to participate in the Nursing Student Loan Forgiveness Program.

Reviser's note.—Amended to conform to the repeal of s. 240.4076 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1009.67 by s. 450, ch. 2002-387.

Section 122. Subsections (1) and (2) of section 1009.74, Florida Statutes, are amended to read:

1009.74 The Theodore R. and Vivian M. Johnson Scholarship Program.—

(1) There is established the Theodore R. and Vivian M. Johnson Scholarship Program to be administered by the Department of Education. The program shall provide scholarships to students attending a state university. The program shall be funded by contributions from the Theodore R. and Vivian M. Johnson Scholarship Foundation and from state matching funds to be allocated from the Trust Fund for University Major Gifts.

(2) The amount to be allocated to the program shall be on the basis of a 50-percent match of funds from the Trust Fund for University Major Gifts for each contribution received from the Theodore R. and Vivian M. Johnson Scholarship Foundation. The funds allocated to the program, including the corpus and interest income, shall be expended for scholarships to benefit disabled students attending a state university.

Reviser's note.—Amended to conform to the complete name of the fund as provided in s. 1011.94.

Section 123. Subsection (2) of section 1010.07, Florida Statutes, is amended to read:

1010.07 Bonds or insurance required.—

(2) Contractors paid from school district, community college, or university funds shall give bond for the faithful performance of their contracts in such amount and for such purposes as prescribed by s. 255.05 or by rules of the State Board of Education relating to the type of contract involved. It shall be the duty of the district school board, community college board of trustees, and university board of trustees to require from construction contractors a bond adequate to protect the board and the board's funds involved.

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

Section 124. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) Calculation of full-time equivalent membership with respect to instruction from community colleges or state universities.—Students enrolled in community college or university dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Such students may also be calculated as the proportional shares of full-time equivalent enrollments they generate for the community college or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools ~~Accrediting Commission of the Association of Independent Colleges and Schools~~, and which

confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation and to conform to the correct name of the Accrediting Council for Independent Colleges and Schools.

Section 125. Subsection (1) of section 1011.94, Florida Statutes, is amended to read:

1011.94 Trust Fund for University Major Gifts.—

(1) There is established a Trust Fund for University Major Gifts. The purpose of the trust fund is to enable each university and New College to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments and sales tax exemption matching funds received pursuant to s. 212.08(5)(j), which must be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by the State Board of Education. All funds appropriated for the challenge grants, new donors, major gifts, sales tax exemption matching funds pursuant to s. 212.08(5)(j), or eminent scholars program must be deposited into the trust fund and invested pursuant to s. 18.125 until the State Board of Education allocates the funds to universities to match private donations. Notwithstanding s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to the portion of the trust fund which is not matched and distributed to universities must remain in the trust fund and be used to increase the total funds available for challenge grants. Funds deposited in the trust fund for the sales tax exemption matching program authorized in s. 212.08(5)(j), and interest earnings thereon, shall be maintained in a separate account within the Trust Fund for University Major Gifts, and may be used only to match qualified sales tax exemptions that a certified business designates for use by state universities and community colleges to support research and development projects requested by the certified business. The State Board of Education may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 1011.45.

Reviser's note.—Amended to improve clarity, facilitate correct interpretation, and provide contextual consistency with the fund name as it exists elsewhere in this section.

Section 126. Subsection (1) of section 1012.33, Florida Statutes, is amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(1)(a) Each person employed as a member of the instructional staff in any district school system shall be properly certified pursuant to s. 1012.56 or s. 1012.57 or employed pursuant to s. 1012.39 and shall be entitled to and shall receive a written contract as specified in this section ~~chapter 230~~. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: misconduct in office, incompetency, gross insubordination, willful neglect of duty, or conviction of a crime involving moral turpitude.

(b) A supervisor or school principal shall be properly certified and shall receive a written contract as specified in this section ~~chapter 1001~~. Such contract may be for an initial period not to exceed 3 years, subject to annual review and renewal. The first 97 days of an initial contract is a probationary period. During the probationary period, the employee may be dismissed without cause or may resign from the contractual position without breach of contract. After the first 3 years, the contract may be renewed for a period not to exceed 3 years and shall contain provisions for dismissal during the term of the contract only for just cause, in addition to such other provisions as are prescribed by the district school board.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 230 was repealed by s. 1058, ch. 2002-387, Laws of Florida. Contracts are now provided for in s. 1012.33.

Section 127. Paragraphs (b) and (c) of subsection (2) of section 1012.74, Florida Statutes, are amended to read:

1012.74 Florida educators professional liability insurance protection.—

(2)

(b) Educator professional liability coverage shall be extended at cost to all instructional personnel, as defined by s. 1012.01(2) ~~1012.01(3)~~, who are part-time personnel, as defined by the district school board policy, and choose to participate in the state-provided program.

(c) Educator professional liability coverage shall be extended at cost to all administrative personnel, as defined by s. 1012.01(3) ~~1012.01(2)~~, who choose to participate in the state-provided program.

Reviser's note.—Paragraphs (2)(b) and (c) are amended to improve clarity and facilitate correct interpretation. Instructional personnel are defined in s. 1012.01(2). Administrative personnel are defined in s. 1012.01(3).

Section 128. Paragraph (b) of subsection (1) of section 1013.31, Florida Statutes, is amended to read:

1013.31 Educational plant survey; localized need assessment; PECO project funding.—

(1) At least every 5 years, each board shall arrange for an educational plant survey, to aid in formulating plans for housing the educational pro-

gram and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. The Office of Workforce and Economic Development shall document the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the educational plant survey of a school district or community college that delivers career or adult education programs. Information used by the Office of Workforce and Economic Development to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

(b) Required need assessment criteria for district, community college, college and state university plant surveys.—Educational plant surveys must use uniform data sources and criteria specified in this paragraph. Each revised educational plant survey and each new educational plant survey supersedes previous surveys.

1. The school district's survey must be submitted as a part of the district educational facilities plan defined in s. 1013.35 ~~235-185~~. To ensure that the data reported to the Department of Education as required by this section is correct, the department shall annually conduct an onsite review of 5 percent of the facilities reported for each school district completing a new survey that year. If the department's review finds the data reported by a district is less than 95 percent accurate, within 1 year from the time of notification by the department the district must submit revised reports correcting its data. If a district fails to correct its reports, the commissioner may direct that future fixed capital outlay funds be withheld until such time as the district has corrected its reports so that they are not less than 95 percent accurate.

2. Each survey of a special facility, joint-use facility, or cooperative career and technical education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school districts, community colleges, colleges, and universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

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

4. Each college and state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Division of Colleges and Universities. Projections of facility space needs

must be consistent with standards for determining space needs approved by the Division of Colleges and Universities. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Division of Colleges and Universities.

5. The district educational facilities plan of a school district and the educational plant survey of a community college, or college or state university may include space needs that deviate from approved standards for determining space needs if the deviation is justified by the district or institution and approved by the department, as necessary for the delivery of an approved educational program.

Reviser's note.—Amended to conform to the repeal of s. 235.185 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1013.35 by s. 830, ch. 2002-387.

Section 129. Paragraph (c) of subsection (2), paragraphs (e) and (f) of subsection (3), paragraph (c) of subsection (4), subsection (5), and paragraph (b) of subsection (7) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.—

(2)

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school age population, considering the district's 5-year work program prepared pursuant to s. ~~1013.35~~ 235.185. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(3) At a minimum, the interlocal agreement must address the following issues:

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. ~~1013.35~~ 235.185.

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. ~~1013.35~~ 235.185.

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

(4)

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (3) or this subsection, the state land planning agency shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72 ~~235.187, 235.216, 235.2195, and 235.42.~~

(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72 ~~235.187, 235.216, 235.2195, and 235.42.~~

(7) Except as provided in subsection (8), municipalities having no established need for a new facility and meeting the following criteria are exempt from the requirements of subsections (2), (3) and (4):

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35 ~~235.185~~, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

Reviser's note.—Paragraphs (2)(c), (3)(e) and (f), and (7)(b) are amended to conform to the repeal of s. 235.185 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1013.35 by s. 830, ch. 2002-387. Paragraph (4)(c) and subsection (5) are amended to conform to the repeal of ss. 235.187, 235.216, 235.2195, and 235.42 by s. 1058, ch. 2002-387, and the enactment of similar material in ss. 1013.68, 1013.72, 1013.70, and

1013.65, respectively, by ss. 865, 869, 867, and 862, ch. 2002-387, respectively.

Section 130. Paragraphs (b) and (f) of subsection (2), and subsection (3) of section 1013.35, Florida Statutes, are amended to read:

1013.35 School district educational facilities plan; definitions; preparation, adoption, and amendment; long-term work programs.—

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN.—

(b) The plan must also include a financially feasible district facilities work program for a 5-year period. The work program must include:

1. A schedule of major repair and renovation projects necessary to maintain the educational facilities and ancillary facilities of the district.

2. A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs. This schedule shall consider:

a. The locations, capacities, and planned utilization rates of current educational facilities of the district. The capacity of existing satisfactory facilities, as reported in the Florida Inventory of School Houses must be compared to the capital outlay full-time-equivalent student enrollment as determined by the department, including all enrollment used in the calculation of the distribution formula in s. 1013.64 ~~235.435(3)~~.

b. The proposed locations of planned facilities, whether those locations are consistent with the comprehensive plans of all affected local governments, and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 1013.33(12), (13), and (14) and 1013.36 ~~235.19~~ and ~~235.193(12), (13), and (14)~~ must be addressed for new facilities planned within the first 3 years of the work plan, as appropriate.

c. Plans for the use and location of relocatable facilities, leased facilities, and charter school facilities.

d. Plans for multitrack scheduling, grade level organization, block scheduling, or other alternatives that reduce the need for additional permanent student stations.

e. Information concerning average class size and utilization rate by grade level within the district which will result if the tentative district facilities work program is fully implemented.

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. For determining future needs, student capacity may not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district educational facilities plan and in the district facilities work

program adopted under this section. Those relocatable classrooms clearly identified and scheduled for replacement in a school-board-adopted, financially feasible, 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed and the relocatable classrooms are not replaced as scheduled in the work program, the classrooms must be reentered into the system and be counted at actual capacity. Relocatable classrooms may not be perpetually added to the work program or continually extended for purposes of circumventing this section. All relocatable classrooms not identified and scheduled for replacement, including those owned, lease-purchased, or leased by the school district, must be counted at actual student capacity. The district educational facilities plan must identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement.

g. Plans for the closure of any school, including plans for disposition of the facility or usage of facility space, and anticipated revenues.

h. Projects for which capital outlay and debt service funds accruing under s. 9(d), Art. XII of the State Constitution are to be used shall be identified separately in priority order on a project priority list within the district facilities work program.

3. The projected cost for each project identified in the district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the district facilities work program.

5. A schedule indicating which projects included in the district facilities work program will be funded from current revenues projected in subparagraph 4.

6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the district facilities work program which are not funded under subparagraph 5. Additional anticipated revenues may include effort index grants, SIT Program awards, and Classrooms First funds.

(f) Commencing on October 1, 2002, and not less than once every 5 years thereafter, the district school board shall contract with a qualified, independent third party to conduct a financial management and performance audit of the educational planning and construction activities of the district. An audit conducted by the Office of Program Policy Analysis and Government Accountability and the Auditor General pursuant to s. 1008.35 ~~230.23025~~ satisfies this requirement.

(3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN TO LOCAL GOVERNMENT.—The district school board shall submit a copy of its tentative district educational facilities plan to all affected local governments prior to adoption by the board. The affected local governments shall review the tentative district educational facilities plan and comment to the district school board on the consistency of the plan with the local comprehensive plan, whether a comprehensive plan amendment will be necessary for any proposed educational facility, and whether the local government supports a necessary comprehensive plan amendment. If the local government does not support a comprehensive plan amendment for a proposed educational facility, the matter shall be resolved pursuant to the interlocal agreement when required by ss. 163.3177(6)(h), 163.31777, and 1013.33(2) ~~235.193(2)~~. The process for the submittal and review shall be detailed in the interlocal agreement when required pursuant to ss. 163.3177(6)(h), 163.31777, and 1013.33(2) ~~235.193(2)~~.

Reviser's note.—Paragraph (2)(b) is amended to conform to the repeal of ss. 235.435, 235.19, and 235.193 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in ss. 1013.64, 1013.36, and 1013.33, respectively, by ss. 861, 831, and 828, ch. 2002-387, respectively. Paragraph (2)(f) is amended to conform to the repeal of s. 230.23025 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1008.35 by s. 380, ch. 2002-387. Subsection (3) is amended to conform to the repeal of s. 235.193 by s. 1058, ch. 2002-387, and the enactment of similar material in s. 1013.33 by s. 828, ch. 2002-387.

Section 131. Subsection (2) of section 1013.356, Florida Statutes, is amended to read:

1013.356 Local funding for educational facilities benefit districts or community development districts.—Upon confirmation by a district school board of the commitment of revenues by an educational facilities benefit district or community development district necessary to construct and maintain an educational facility contained within an individual district facilities work program or proposed by an approved charter school or a charter school applicant, the following funds shall be provided to the educational facilities benefit district or community development district annually, beginning with the next fiscal year after confirmation until the district's financial obligations are completed:

(2) For construction and capital maintenance costs not covered by the funds provided under subsection (1), an annual amount contributed by the district school board equal to one-half of the remaining costs of construction and capital maintenance of the educational facility. Any construction costs above the cost-per-student criteria established for the SIT Program in s. 1013.72(2) ~~235.216(2)~~ shall be funded exclusively by the educational facilities benefit district or the community development district. Funds contributed by a district school board shall not be used to fund operational costs.

Educational facilities funded pursuant to this act may be constructed on land that is owned by any person after the district school board has acquired from the owner of the land a long-term lease for the use of this land for a

period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer. All interlocal agreements entered into pursuant to this act shall provide for ownership of educational facilities funded pursuant to this act to revert to the district school board if such facilities cease to be used for public educational purposes prior to 40 years after construction or prior to the end of the life expectancy of the educational facilities, whichever is longer.

Reviser's note.—Amended to conform to the repeal of s. 235.216 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1013.72 by s. 869, ch. 2002-387.

Section 132. Subsection (6) of section 1013.36, Florida Statutes, is amended to read:

1013.36 Site planning and selection.—

(6) If the school board and local government have entered into an interlocal agreement pursuant to s. 1013.33(2) ~~235.193(2)~~ and either s. 163.3177(6)(h)4. or s. 163.31777 or have developed a process to ensure consistency between the local government comprehensive plan and the school district educational facilities plan, site planning and selection must be consistent with the interlocal agreements and the plans.

Reviser's note.—Amended to conform to the repeal of s. 235.193 by s. 1058, ch. 2002-387, Laws of Florida, and the enactment of similar material in s. 1013.33 by s. 828, ch. 2002-387.

Section 133. Subsection (6) of section 1013.68, Florida Statutes, is amended to read:

1013.68 Classrooms First Program; uses.—

(6) School districts may enter into interlocal agreements to lend their Classrooms First Program funds as provided in paragraph (2)(c). A school district or multiple school districts that receive cash proceeds may, after considering their own new construction needs outlined in their 5-year district facilities work program, lend their Classrooms First Program funds to another school district that has need for new facilities. The interlocal agreement must be approved by the Commissioner of Education ~~Secretary of Education~~ and must outline the amount of the funds to be lent, the term of the loan, the repayment schedule, and any interest amount to be repaid in addition to the principal amount of the loan.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Florida does not have a Secretary of Education. Interlocal agreements are approved by the Commissioner of Education.

Approved by the Governor April 1, 2003.

Filed in Office Secretary of State April 1, 2003.