



Ways and Means Committee

Wednesday, April 5, 2017

9:00 a.m. – 2:00 p.m.

Morris Hall

MEETING PACKET



Part II

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7011 PCB HQS 17-01 Health Care Access

SPONSOR(S): Health Quality Subcommittee, Pigman

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee	10 Y, 3 N	Siples	McElroy
1) Ways & Means Committee		Aldridge 	Langston 
2) Health & Human Services Committee			

SUMMARY ANALYSIS

Florida, as well as the nation, is facing a shortage of health care practitioners. In order to broaden access to health care services, the bill seeks to eliminate unnecessary regulation and authorize and incentivize efficient methods of providing care.

The bill allows APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol by registering with the Board of Nursing. In addition, the bill authorizes these "independent advanced practice registered nurses" to:

- Act as a patient's primary care provider;
- Provide a signature, certification, stamp, verification, affidavit, or other endorsement currently required by law to be provided by a physician;
- Certify a cause of death and sign, correct, and file death certificates;
- Perform certain physical examinations currently reserved to physicians by Florida law, such as examinations of pilots, law enforcement officers, and suspected child abuse victims; and
- Be reimbursed under personal injury protection insurance for initial and follow-up medical services, consistent with current law applicable to physicians.

IAPRNs may be administratively disciplined if they commit specified prohibited acts related to unethical and substandard business practices. The bill also imposes additional requirements on IAPRNs for controlled substance prescribing. IAPRNs must complete 10 hours of continuing education related to pharmacology prior to biennial registration renewal and report controlled substance-related adverse incidents to the Board.

The bill changes the term "advanced registered nurse practitioner" to "advanced practice registered nurse" (APRN) throughout Florida Statutes. The bill authorizes an APRN or a physician assistant (PA) to certify a person for involuntary examination under the Baker Act.

The bill authorizes PAs to perform certain examinations that APRNs are authorized to perform under current law, such as those to detect child abuse and for the purpose of pilot certification. The bill authorizes PAs to file death registrations and certify a cause of death. The bill also authorizes PAs to participate in the Public School Volunteer Health Care Practitioner Program.

The bill creates s. 456.47, F.S., relating to the use of telehealth to provide health care services. Specifically, the bill:

- Authorizes Florida-licensed health care professionals to use telehealth and articulates a standard of care.
- Authorizes out-of-state health care professionals to use telehealth for Florida patients if they register with the Department of Health (DOH) or the applicable board, meet certain requirements, and pay a fee.
- Authorizes health care professionals who prescribe controlled substances to use telehealth to do so, with certain limited circumstances.
- Requires registered telehealth pharmacists to use only Florida-registered for Florida patients.
- Provides standards for record-keeping for those patients who are rendered health care services using telehealth.

For tax years beginning on or after January 1, 2018, the bill creates a tax credit for health insurers and health maintenance organizations (HMOs) that cover services provided by telehealth. A tax credit, in the amount of one tenth of one percent of total insurance premiums received on certain accident or health insurance policies issued or delivered in Florida in the previous calendar year, may be applied against the incurred corporate income tax or insurance premium tax. Any unused tax credit may be carried forward for up to 5 years. The bill authorizes the Department of Revenue to recoup any tax credit amounts for which it finds the health insurer or HMO was ineligible to receive.

The bill provides an appropriation of \$261,389 recurring and \$15,528 nonrecurring funds from the Medical Quality Assurance Trust Fund and four full time equivalent positions and \$145,870 in salary rate to utilize the funds generated from the registration fee to offset the workload increase anticipated from additional licenses. The Revenue Estimating Conference estimated that the tax provisions in the bill will have a recurring negative impact on General Revenue, though the first cash impacts of -\$30.8 million are delayed until FY 2019-20. The bill does not have a revenue impact on local government.

The bill provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7011.WMC.DOCX

DATE: 3/29/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Health Care Professional Shortage

There is currently a health care provider shortage in the U.S.¹ For example, as of January 1, 2017, the U.S. Department of Health and Human Services has designated 6,626 Primary Care Health Professional Shortage Area (HPSA) (requiring 9,376 additional primary care physicians to eliminate the shortage), 5,493 Dental HPSAs (requiring 8,118 additional dentists to eliminate the shortage), and 4,627 Mental Health HPSAs (requiring 3,397 additional psychiatrists to eliminate the shortage). Similarly, according to a 2010 report prepared by the Florida Center for Nursing, Florida is projected to experience a shortage of more than 62,800 nurses by 2025.²

This shortage is predicted to continue into the foreseeable future and will likely worsen with the aging and growth of the U.S. population³ and the passage of the Patient Protection and Affordable Care Act.⁴ Aging populations create a disproportionately higher health care demand.⁵ Additionally, as more individuals qualify for health care benefits, there will necessarily be a greater demand for more health care professionals to provide these services. There are several other factors which will likely increase the demand for a larger health care workforce. These include:⁶

- Shortage of health care professionals being educated, trained and licensed;
- Lack of specialists and health facilities in rural areas;
- Adverse events, injuries and illness at hospitals and physician's offices; and
- Need to improve community and population health.

Florida is not immune to the national problem and is experiencing a health care provider shortage itself. This is evidenced by the fact that for just primary care, dental care and mental health there are 655 federally designated Health Professional Shortage Areas (HPSA) within the state.⁷ It would take 1,010 primary care, 1,203 dental care, and 254 mental health practitioners to eliminate these shortage areas.⁸

¹ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Shortage Areas*, available at <http://www.hrsa.gov/shortage/> (last visited January 6, 2017).

² Florida Center for Nursing, *RN and LPN Supply and Demand Forecasts, 2010-2025: Florida's Projected Nursing Shortage in View of the Recession and Healthcare Reform* (Oct. 2010), available at <https://www.flcenterfornursing.org/ForecastsStrategies/FCNForecasts.aspx> (last visited January 6, 2017).

³ There will be an increase in the U.S. population, estimated to grow from just under 319 million in 2014 to approximately 359.4 million in 2030, eventually reaching 417 million in 2060. See U.S. Census Bureau, *Projections of the Size and Composition of the U.S. Population: 2014 to 2060* (March 2015), available at <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf> (last visited January 6, 2017).

⁴ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Projecting the Supply and Demand for Primary Care Practitioners Through 2020* (November 2013), available at <https://bhw.hrsa.gov/sites/default/files/bhw/nchwa/projectingprimarycare.pdf> (last visited on January 6, 2017). Changes to or repeal of the Affordable Care Act is likely.

⁵ One analysis measured current primary care utilization (office visits) and projected the impact of population increases, aging, and insured status changes. The study found that the total number of office visits to primary care physicians will increase from 462 million in 2008 to 565 million in 2025, and (because of aging) the average number of visits will increase from 1.60 to 1.66. The study concluded that the U.S. will require 51,880 additional primary care physicians by 2025. See Petterson, Stephen M., et al., "Projecting U.S. Primary Care Physician Workforce Needs: 2010-2025", *Annals of Family Medicine*, vol. 10, No. 6, Nov./Dec. 2012, available at <http://www.annfam.org/content/10/6/503.full.pdf+html> (last visited on January 6, 2017).

⁶ Matthew A. Hein, *Telemedicine: An Important Force in the Transformation of Healthcare*, (June 25, 2009), available at http://trade.gov/td/health/telemedicine_2009.pdf (last visited January 6, 2017).

⁷ *Supra* note 1.

⁸ *Id.*

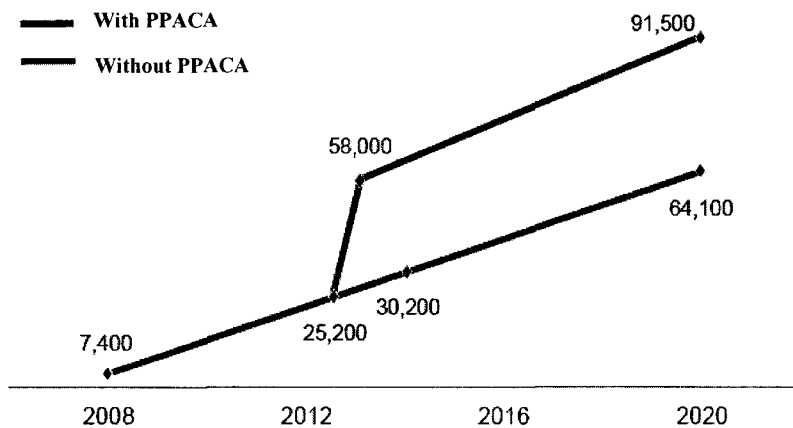
Physician Workforce Data

The Association of American Medical Colleges Center for Workforce Studies estimates that the U.S. will face a physician shortage of between 61,700 and 94,700 across all specialties by 2025.⁹

In 2014, there were 265.5 physicians¹⁰ actively practicing per 100,000 population in the U.S., ranging from a high of 432.4 in Massachusetts to a low of 184.7 in Mississippi. The states with the highest number of physicians per 100,000 population are concentrated in the northeastern states.¹¹ Regarding primary care physicians, there were 91.1 per 100,000 population.¹²

The following chart illustrates the projected physician shortage, nationally, with and without full implementation of the PPACA.

National projected physician shortages



Source: Kirch DG, Henderson MK, Dill MJ (2011). "Physician Workforce Projections in an Era of Health Care Reform." *Annual Review of Medicine*.

Florida had 257.2 actively practicing physicians per 100,000 population in 2014. Although Florida is the third most populous state in the nation,¹³ it ranks as having the 22nd highest physician to population ratio.¹⁴ In 2014, Florida had a ratio of 86.4 primary care physicians per 100,000 population, ranking Florida 30th compared to other states.¹⁵

In its 2016 Physician Workforce Annual Report, the Department of Health (DOH) indicated that 13.7 percent of Florida's physicians reported that they were planning to retire within the next five years, which will exacerbate Florida's shortage of physicians.¹⁶ The following map¹⁷ illustrates that not only

⁹ The Association of American Medical Colleges (AAMC), "The Complexities of Physician Supply and Demand: Projections Through 2025," available at: <https://members.aamc.org/eweb/upload/The%20Complexities%20of%20Physician%20Supply.pdf> (last visited February 2, 2017).

¹⁰ These totals include allopathic and osteopathic doctors.

¹¹ AAMC, "2015 State Physician Workforce Data Book," November 2015, pg. 4, available at: [http://members.aamc.org/eweb/upload/2015StateDataBook%20\(revised\).pdf](http://members.aamc.org/eweb/upload/2015StateDataBook%20(revised).pdf) (last visited on February 2, 2017).

¹² *Id.* at pg. 5.

¹³ As of July 1, 2015, the U.S. Census Bureau estimated Florida to have 20,271,272 residents, behind California (39,144,818) and Texas (27,469,114). U.S. Census Bureau, "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015: 2015 Population Estimates," available at:

http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2014_PEPANNRES&prodType=table (last visited on February 2, 2017).

¹⁴ *Supra* note 11, at pg. 9.

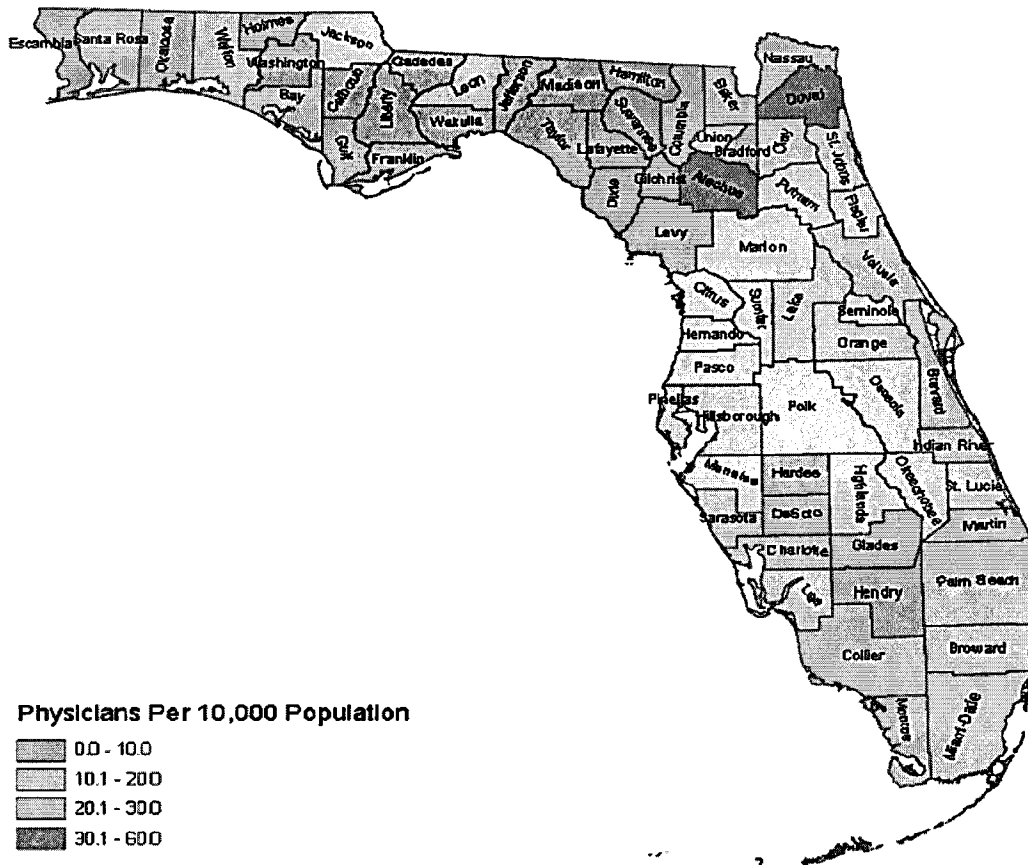
¹⁵ *Supra* note 11, at pg. 13.

¹⁶ Florida Department of Health, "2016 Physician Workforce Annual Report," available at: <http://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/physician-workforce-development-and-recruitment/2016%20DOH%20Physician%20Workforce%20Report.pdf> (last visited on February 2, 2017).

¹⁷ *Id.* at pg. 11.

does Florida have a shortage of physicians, but also there is a maldistribution of physicians and they are generally concentrated in urban areas.

Figure 7: Florida's Physician Workforce by County
2015 - 2016



This map illustrates a per capita distribution of licensed, practicing physicians at the county level. There were 45,746 licensed, practicing physicians who participated in the 2015-2016 survey cycle.

Nurse Workforce Data

In 2014, there were approximately 126,900 certified nurse practitioners (CNPs), 38,200 certified registered nurse anesthetists (CRNAs), 5,300 certified nurse midwives (CNMs), and 2,751,000 registered nurses (RNs) employed in the U.S.¹⁸ There were approximately 40 CNPs, 12 CRNAs, 2 CNMs, and 863 RNs per 100,000 population in 2014.¹⁹

As of February 2017, there were 27,881 advanced registered nurse practitioners (ARNPs) holding a certificate to practice in Florida, including 21,586 CNPs, 5,471 CRNAs, and 824 CNMs.²⁰ There were also 278,284 actively licensed registered nurses. Based on those figures, Florida has approximately the

¹⁸ U.S. Department of Labor, Bureau of Labor Statistics, "Employment Projections," available at: <http://data.bls.gov/projections/occupationProj> (last visited on February 2, 2017).

¹⁹ These ratios were calculated using the U.S. Census Bureau's total population estimate for 2014, which was 318,857,056, which is available at:

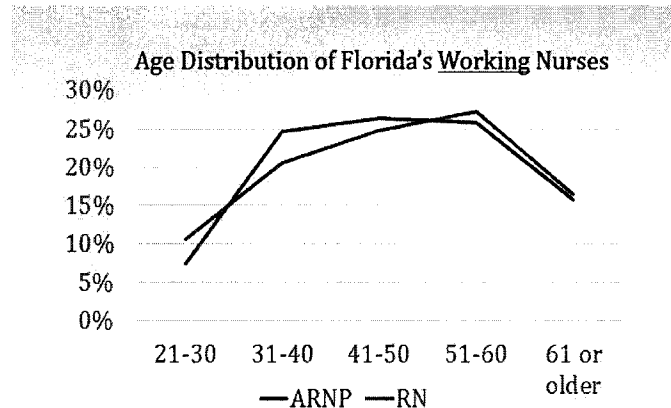
http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2014_PEPANNRES&prodType=table (last visited on Nov. 10, 2016) and the U.S. Bureau of Labor Statistics 2012 data on employment projections available at: <http://data.bls.gov/projections/occupationProj> (last visited on February 2, 2017).

²⁰ E-mail correspondence with the Department of Health dated February 2, 2017, on file with the staff of the Health Quality Subcommittee.

following number of nurses per 100,000 population: 106.7 CNPs, 4.1 CNMs, 27.0 CRNAs, and 1,375.5 RNs.^{21,22}

The Florida Center for Nursing (center) projects that there will be a shortage of approximately 20,600 RNs in 2025, and if PPACA were to be fully implemented Florida would have a shortage of approximately 50,300 RNs.²³

The center has also reported that almost 44 percent of Florida's RNs²⁴ and 41.5 percent of the state's ARNPs²⁵ are 51 years old or older, meaning there will be a large sector of Florida's nursing workforce retiring in the near future.²⁶



Advanced Practice Nurses

The term advanced practice nurse (APN) refers to registered nurses who have completed rigorous training and advanced education, usually resulting in a master's degree or higher. The titles of APNs vary from state to state. The National Council of State Boards of Nursing encourages states to use the term "advanced practice registered nurse" (APRN) to promote uniformity and title recognition across the nation.²⁷

²¹ These ratios were calculated using population estimates for FY 2015-2016 provided by the Florida Office of Economic & Demographic Research, which is 20,231,756, and available at:

<http://edr.state.fl.us/Content/conferences/population/ComponentsofChange.pdf> (last visited February 2, 2017).

²² Although it appears from this data that Florida has a higher ratio of nurses than the national ratio, the national data used to calculate the ratios only considers the number of nurses "employed" in the U.S. No similar employment data exists in Florida for 2014 to correlate with the national numbers. The numbers used to calculate Florida's ratios includes all active licensees, whom may not necessarily be employed, as well as out-of-state licensees that may or may not be actively practicing in this state, hence the larger ratios.

²³ The estimates are based on full-time equivalent (FTE) registered nurses. The Florida Center for Nursing, "RN and LPN Supply and Demand Forecasts, 2010-2025: Florida's Projected Nursing Shortage in View of the Recession and Healthcare Reform," pg. 7, October 2010, available at:

http://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=17&PortalId=0&TabId=151 (last visited February 2, 2017).

²⁴ Florida Center for Nursing, "Florida's Registered Nurse Supply: 2014-2015 Workforce Characteristics and Trends," pg. 10, May 2016, available at

https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1194&PortalId=0&TabId=151 (last visited February 2, 2017) Of working RNs in this state, 27.3 percent are 51 to 60 years old and 16.5 percent are 61 or older.

²⁵ Florida Center for Nursing, "Florida's Advanced Registered Nurse Practitioner Supply: 2014-2015 Workforce Characteristics and Trends," pg. 10, May 2016, available at

https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1196&PortalId=0&TabId=151 (last visited February 2, 2017). Of working ARNPs in this state, 25.8 percent are 51 to 60 years old and 15.7 percent are 61 or older.

²⁶ Florida Center for Nursing, Presentation on Florida's Nurse Workforce, February 8, 2017, available at:

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2918&Session=2017&DocumentType=Meeting%20Packets&FileName=hqs%202-8-17.pdf> (last visited February 8, 2017).

²⁷ National Council of State Boards of Nursing, "Model for Uniform National Advanced Practice Registered Nurse (APRN) Regulation: A Handbook for Legislators," available at https://www.ncsbn.org/2010/APRN_HandbookforLegislators_web.pdf (last visited February 2, 2017).

In Florida, an APN is titled as an “advanced registered nurse practitioner” (ARNP)²⁸ and is categorized as a certified nurse practitioner (CNP), certified nurse midwife (CNM), or certified registered nurse anesthetist (CRNA).²⁹ As of February 2017, Florida has 21,586 CNPs, 5,471 CRNAs, and 824 CNMs.³⁰

ARNPs are regulated under part I of ch. 464, F.S., the Nurse Practice Act. The Board of Nursing (Board), established under s. 464.004, F.S., provides by rule the eligibility criteria for applicants to be certified as ARNPs and the applicable regulatory standards for ARNP nursing practices. Additionally, the Board is responsible for administratively disciplining an ARNP who commits an act prohibited under ss. 464.018 or 456.072, F.S.

Section 464.003(2), F.S., defines the term “advanced or specialized nursing practice” to include, in addition to practices of professional nursing that registered nurses are authorized to perform, advanced-level nursing acts approved by the Board as appropriate for ARNPs to perform by virtue of their post-basic specialized education, training, and experience. Advanced or specialized nursing acts may only be performed if authorized under a supervising physician’s protocol.³¹

In addition to advanced or specialized nursing practices, ARNPs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician’s protocol.³²

To be eligible to be certified as an ARNP, the applicant must be licensed as a registered nurse, have a master’s degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.³³ A nursing specialty board must:

- Attest to the competency of nurses in a clinical specialty area;
- Require nurses to take a written examination prior to certification;
- Require nurses to complete a formal program prior to eligibility for examination;
- Maintain program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida; and
- Identify standards or scope of practice statements appropriate for each nursing specialty.³⁴

Pursuant to s. 456.048, F.S., all ARNPs must carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for certification is required to submit proof of coverage or financial responsibility within sixty days of certification and prior to each biennial certification renewal. The ARNP must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the ARNP as beneficiary.³⁵ By comparison, physicians are required by Florida law to establish some method of financial responsibility with the same coverage amounts, and can choose one of three options for doing so: malpractice insurance, an escrow account, or a letter of credit. However, physicians who agree to pay adverse judgments, up to certain statutory limits, are exempt from this requirement, but must notify patients that they have chosen not to carry malpractice insurance.³⁶

²⁸ Section 464.003(3), F.S.

²⁹ Section 464.012(4), F.S.

³⁰ Email correspondence from DOH dated February 2, 2017, on file with committee staff.

³¹ *Supra* note 29.

³² *Supra* note 28.

³³ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

³⁴ Rule 64B9-4.002(3), F.A.C.

³⁵ Rule 64B9-4.002, F.A.C. DOH Form DH-MQA 1186, 01/09, “Financial Responsibility,” is incorporated into the rule by reference.

Certain licensees, such as those who practice exclusively for federal or state governments, only practice in conjunction with a teaching position, or can demonstrate no malpractice exposure in this state are exempt from the financial responsibility requirements.

³⁶ If allopathic and osteopathic physicians meet certain eligibility criteria and post signage at their medical office disclosing to the public that they do not carry medical malpractice insurance, they are exempt from medical malpractice or proof of financial responsibility requirements provided in ss. 458.320 and 459.0085, F.S., respectively.

Florida is a supervisory state. Under s. 464.012(3), F.S., APNs may only perform nursing practices delineated in a written physician protocol filed with the Board.⁴⁰

Florida law allows a physician providing primary health care services to supervise APNs in up to four medical offices,⁴¹ in addition to the physician's primary practice location. If the physician provides specialty health care services, then only two medical offices in addition to the physician's primary practice location may be supervised.⁴² Furthermore, a special limitation applies to dermatology services. If the physician offers services primarily related to dermatologic or skin care services (including aesthetic skin care services other than plastic surgery), at a medical office that is not the physician's primary practice location, then the physician may only supervise one medical office.⁴³

Scope of Practice

State laws vary as to the scope within which an APN may practice, which is often determined by whether the APN is a CNP, CNM, or CRNA, and often relates to the authority to prescribe drugs and sign documents.

Twenty of the 29 independent practice states authorize an APN to prescribe controlled substances to a patient without physician supervision. Two of the 29 independent practice states, Kentucky and Michigan, require APNs to enter into a collaboration or delegation agreement with a physician in order to prescribe controlled substances.⁴⁴ In 2016, the legislature passed the "Barbara Lumpkin Prescribing Act" which authorizes APNs in Florida to prescribe controlled substances beginning January 2017. The law maintained the existing supervisory structure and limited the prescribing authority, as well as required continuing education related to controlled substances prescribing.⁴⁵ Ten states specifically prohibit CRNAs from prescribing drugs, and 17 authorize CRNAs to prescribe pursuant to a written protocol with a physician or under the supervision of physician.⁴⁶ The map on p. 18 illustrates the varying controlled substance prescribing requirements throughout the U.S.

At least 12 states grant APNs have broad-based signature authority laws.⁴⁷ This authority is often referred to as "global signature authority." Many states specify in law the types of things an APN may sign, such as death certificates, handicapped license designations, and advanced directives.⁴⁸

Nineteen states statutorily recognize APNs as "primary care providers."⁴⁹ Recognizing APNs as primary care providers assists them with being able to directly bill public or private payers for services provided,

⁴⁰ Allopathic and osteopathic physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. Sections 458.348 and 459.025, F.S.

⁴¹ The supervision limitations do not apply in certain facilities such as hospitals, colleges of medicine or nursing, nonprofit family-planning clinics, rural and federally qualified health centers, nursing homes, assisted living facilities, continuing care facilities, retirement communities, clinics providing anesthesia services, rural health clinics, community-based health care settings, student health care centers, school health clinics, or other government facilities. Sections 458.348(4)(e), and 459.025(3)(e), F.S.

⁴² Sections 458.348, and 459.025, F.S.

⁴³ *Id.*

⁴⁴ *Supra* note 37. The remaining states have some type of restriction or limitation on prescribing controlled substances regardless of supervision.

⁴⁵ Chapter 2016-224, L.O.F.

⁴⁶ National Council of State Boards of Nursing, *CRNA Independent Prescribing Map*, (August 2016), available at <https://www.ncsbn.org/5408.htm> (last visited February 2, 2017).

⁴⁷ American Association of Nurse Practitioners, *Issue-At-A-Glance: Signature Authority*, (April 2016), available at <https://www.aanp.org/images/documents/policy-toolbox/signatureauthorityissue.pdf> (last visited February 2, 2017). Those states include Colorado, Georgia, Hawaii, Maine, Massachusetts, New Mexico, North Carolina, Rhode Island, Vermont, Virginia, Washington, and West Virginia.

⁴⁸ *Id.*

⁴⁹ Office of Program Policy Analysis & Government Accountability, "States Vary in Their Treatment of Advanced Registered Nurse Practitioners as Primary Care Providers," October 2013, on file with committee staff.

order certain tests, and establish independent primary care practices.⁵⁰ Insurers may be unwilling to contract directly with a provider who is supervised by another provider.⁵¹

APN Scope of Practice in Florida

Within the framework of the written protocol, an APN may:

- Prescribe, dispense, administer, or order any drug;⁵²;
- Initiate appropriate therapies for certain conditions;
- Perform additional functions as may be determined by Board rule;
- Order diagnostic tests and physical and occupational therapy;
- Perform certain acts within his or her specialty; and
- Perform medical acts authorized by a joint committee.⁵³

APNs in Florida are not authorized to sign certain documents; rather, Florida law requires them to be signed by a physician. For example, APNs are not authorized to sign a certificate to initiate the involuntary examination of a person under the Baker Act, to sign for the release of persons in receiving facilities under the Baker Act, or to sign death certificates.⁵⁴

Reports and Studies Related to Advanced Practice Nurses

Patient Health Care Outcomes

Despite concerns that APNs provide a different quality of care than physicians,⁵⁵ a multitude of reports and studies suggest treatment by an APN is just as safe, if not safer, than treatment by a physician. In 2009, the Cochrane Collaboration published a review of the findings of 25 articles comparing physician and APN patient outcomes. The review found that, in general, there are no appreciable differences between physicians and APNs in health outcomes for patients, process of care, resource utilization, or cost.⁵⁶

Similar to the Cochrane review, the National Governors Association performed a review of various studies to determine whether there were differences in the quality of care provided by CNPs compared to physicians. The studies measured quality of care components such as patient satisfaction, time spent with patients, and prescribing accuracy. The review of those studies found that CNPs provided at least equal quality of care to patients as compared to physicians and, in fact, CNPs were found to have equal or higher patient satisfaction rates and tended to spend more time with patients during clinical visits.⁵⁷

⁵⁰ National Nursing Centers Consortium, "Insurers' contracting policies on nurse practitioners as primary care providers: the current landscape and what needs to change," *Policy, Politics & Nursing Practice*, 7(3), 216-226, August 2006, available at: <http://journals.sagepub.com/doi/pdf/10.1177/1527154406294339> (last visited on February 2, 2017).

⁵¹ ARNP services are required minimum services in the Managed Medical Assistance program. Sections 409.905 and 409.973, F.S. Florida law does not require Medicaid managed care plans to contract directly with ARNPs.

⁵² Controlled substances may only be prescribed or dispensed if the ARNP has graduated from a program leading to a master's or doctoral degree in a clinical specialty area with training in specialized practitioner skills.

⁵³ Sections 464.012(3),(4), and 464.003, F.S.

⁵⁴ Sections 394.463(2) and 382.008, F.S.

⁵⁵ When 972 clinicians, including 467 nurse practitioners and 505 physicians, were surveyed in a study as to whether physicians provide a higher quality of examination and consultation, the respondents were diametrically opposed. Approximately 66.1% of physicians agreed with the statement and 75.3% of nurse practitioners disagreed with the statement. Donelan, K., Sc.D., DesRoches, C., Dr. P.H., Dittus, R., M.D., M.P.H., and Buerhaus, P., R.N., Ph.D., "Perspectives of Physicians and Nurse Practitioners on Primary Care Practice," *N. Engl. J. Med.* 2013, 368:1898-1906, available at <http://www.nejm.org/doi/full/10.1056/NEJMsa1212938> (last visited February 2, 2017).

⁵⁶ Laurant, M., et al., The Cochrane Collaboration, "Substitution of doctors by nurses in primary care," October 18, 2004, abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/15846614> (last visited February 2, 2017); the full report is on file with committee staff.

⁵⁷ National Governors Association, "The Role of Nurse Practitioners in Meeting Increasing Demand for Primary Care," December 2012, available at <http://www.nga.org/files/live/sites/NGA/files/pdf/1212NursePractitionersPaper.pdf> (last visited February 2, 2017).

A 2013 study, found that allowing CNPs to practice and prescribe drugs without physician oversight leads to increased primary health care utilization and improvements in health outcomes.⁵⁸

Cost Savings

The rising cost of health care is a concern for individuals, families, businesses, government entities, and society as a whole. These rising costs will only be intensified by the increasing number of persons with health care coverage and the shortage of health care workers.⁵⁹

In 2012, the Perryman Group conducted a study to determine whether Texas could achieve any cost-savings by increasing the utilization of APNs. A report of the study's findings concluded that greater utilization of APNs would improve patient outcomes, reduce overall health care costs, and increase access to health care. The estimated savings were \$16.1 billion in total expenditures and \$8 billion in output (gross product) each year. Additionally, it was estimated that 97,205 permanent jobs would be added to Texas' workforce. Finally, the report estimated that Texas would receive additional tax receipts of up to \$483.9 million to the state and \$233.2 million to local government entities each year.⁶⁰

Another study found that states that allow APNs to practice and prescribe without physician supervision experience 16-35% increases in health care utilization, increases in care quality, and reductions in inappropriate emergency room use. The researchers concluded these advances were primarily due to elimination of supervision time (10%) and lower indirect costs (such as better appointment availability and lower patient travel costs).⁶¹

The U.S. Federal Trade Commission (FTC) has authored several letters to states regarding the negative effects of restrictive scope of practice laws for APNs. The main concern of the FTC is that scope of practice restrictions are anti-competitive and that they, in effect, reduce competitive market pressures, increase out-of-pocket prices, allow for more limited service hours, and reduce the distribution of services. The FTC poses that if such constraints were eliminated, not only would access to services be increased, but also there would be benefits to price competition that would help contain health care costs.⁶²

Physician Assistants

Florida Licensure

Under Florida law, PAs are governed under the physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs). PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. As of February 2017, there are 7,527 active licensed PAs.⁶³

An applicant for a PA license must apply to the Department of Health (Department). The Department must issue a license to a person certified by the Council as having met all of the following requirements:

- At least 18 years of age;

⁵⁸ Udalova, V., Traczynski, J., "Nurse Practitioner Independence, Health Care Utilization, and Health Outcomes," May 4, 2014, available at http://www2.hawaii.edu/~jtraczyn/paperdraft_050414_ASHE.pdf (last visited February 2, 2017).

⁵⁹ The Perryman Group, "The Economic Benefits of More Fully Utilizing Advanced Practice Registered Nurses in the Provision of Health Care in Texas," May 2012, available at <http://c.ymcdn.com/sites/www.texasnp.org/resource/resmgr/Advocacy/Perryman%20APRN%20Utilization%20Economic%20Impact%20Report%20May%202012.pdf> (last visited February 2, 2017).

⁶⁰ *Id.*

⁶¹ *Supra* note 58.

⁶² U.S. Federal Trade Commission, Office of Policy Planning, Bureau of Competition and Bureau of Economics, letters to the Illinois State Senate, Connecticut House of Representatives, and Texas State Senate, on file with committee staff.

⁶³ E-mail correspondence with the Department of Health, dated February 2, 2017, on file with the staff of the Health Quality Subcommittee.

- Satisfactorily passes the National Commission on Certification of Physician Assistants exam;
- Completes an application form and remit the registration fee;
- Completes an approved PA training program
- Provides an acknowledgement of any prior felony convictions;
- Provides an acknowledgement of any revocation or denial of licensure or certification in any state; and
- If the applicant wishes to apply for prescribing authority, submits of a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.⁶⁴

Licenses are renewed biennially.⁶⁵ A PA must complete 100 hours of continuing medical education (CME) during the two years prior to application for renewal or hold a current certificate issued by the National Commission on Certification of Physician Assistants.⁶⁶

PA Autonomy in Florida

In Florida, a PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area in which the PA is practicing and is responsible and liable for the performance, acts, and omissions of the PA.⁶⁷

The Boards have established by rule that “responsible supervision” of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA. Whether the supervision of a PA is adequate, is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;
- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.⁶⁸

The supervising physician is required to periodically review the PA's performance.

A supervising physician may only delegate tasks and procedures to the PA which are within the supervising physician's scope of practice.⁶⁹ The decision to permit the PA to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.⁷⁰

A supervising physician may delegate the authority for a PA to:

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the formulary established by the Council;⁷¹

⁶⁴ See s. 458.347 and s. 459.022, F.S.

⁶⁵ For timely renewed licenses, the renewal fee is \$275 and the prescribing registration is \$150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of \$5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C.

⁶⁶ Sections 458.347(7)(b)-(c) and 459.022(7)(b)-(c), F.S.

⁶⁷ Sections 458.347(3), F.S., and 459.022(3), F.S.; and Rules 64B8-30.012, F.A.C., and 64B15-6.010, F.A.C.

⁶⁸ Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

⁶⁹ *Supra* note 64.

⁷⁰ “Direct supervision” refers to the physical presence of the supervising physician so that the physician is immediately available to the PA when needed. “Indirect supervision” refers to the reasonable physical proximity of the supervising physician to the PA or availability by telecommunication. *Supra* fn. 78.

⁷¹ Sections 458.347(4)(f), F.S., and 459.022(e), F.S., directs the Council to establish a formulary listing the medical drugs that a PA may not prescribe. The formulary in Rules 64B8-30.008, F.A.C., and 64B15-6.0038, F.A.C., prohibits PAs from prescribing controlled

- Order any medication for administration for administration to the supervising physician's patient in a facility licensed under chapter 395, F.S., or part II of chapter 400, F.S.;⁷² and
- Any other services that are not expressly prohibited in ch. 458, ch. 459, or the rules adopted thereunder.⁷³

Telehealth

There is no universally accepted definition of telehealth. In broad terms, telehealth is:

The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment⁷⁴ and prevention of disease and injuries⁷⁵, research and evaluation, and for the continuing education of health care providers, all in the interests of advancing the health of individuals and their communities.⁷⁶

More specific definitions vary by state and occasionally by profession.⁷⁷ There are, however, common elements among the varied definitions of telehealth.

Telehealth generally consists of synchronous and/or asynchronous transmittal of information.⁷⁸ Synchronous refers to the live⁷⁹ transmission of information between patient and provider during the same time period.⁸⁰ Asynchronous telehealth is the transfer of data over a period of time, and typically in separate time frames.⁸¹ This is commonly referred to as "store and forward." Definitions of telehealth also commonly contain restrictions related to the location where telehealth may be used. For example, the use of the "hub and spoke" model is a common location restriction. A hub site is the location from which specialty or consultative services originate, i.e., the provider.⁸² A spoke site is a remote site where the patient is presented during the telehealth encounter.⁸³ Under this model, health services may be provided through telehealth only if the patient is located at a designated spoke site and the provider is located at a designated hub site.

Telehealth includes telemedicine and telemonitoring. Telemedicine is focused on the delivery of traditional clinical services, like diagnosis and treatment. Telemonitoring is the process of using audio,

substances; general, spinal or epidural anesthetics; and radiographic contrast materials. However, the rules authorize physicians to delegate to PAs the authority to order controlled substances in facilities licensed under ch. 395, F.S..

⁷² Chapter 395, F.S., provides for the regulation and the licensure of hospitals and trauma centers, part II of ch. 400, F.S., provides for the regulation and licensure of nursing home facilities.

⁷³ Sections 458.347(4) and 459.022(e), F.S.

⁷⁴ The University of Florida's Diabetes Center of Excellence utilizes telehealth to deliver treatment to children with diabetes and other endocrine problems who live in Volusia County. This allows the children to receive specialized treatment without the necessity of traveling from Volusia County to Gainesville. The Florida Department of Health's Children's Medical Services underwrites the program. See <https://ufhealth.org/diabetes-center-excellence/telemedicine> (last visited on January 6, 2017).

⁷⁵ The University of South Florida has partnered with American Well to provide health care services to the residents of the Villages via telehealth. The goal is to reduce hospital admissions, readmission rates, and pharmacy costs, while maintaining Medicare beneficiaries in their homes rather than long-term care settings. <http://hscweb3.hsc.usf.edu/blog/2012/06/22/usf-health-and-american-well-to-bring-telehealth-to-seniors-living-at-the-villages/> (last visited on January 6, 2017).

⁷⁶ World Health Organization, *Telemedicine: Opportunities and Developments in Member States, Global Observatory for Ehealth Series- Volume 2*, Section 1.2, page 9 (2010), available at http://www.who.int/goe/publications/goe_telemedicine_2010.pdf (last visited on January 6, 2017).

⁷⁷ Center for Connected Health Policy, The National Telehealth Policy Resource Center, *State Telehealth Laws and Medicaid Program Policies*, (August 2016), available at http://www.cchpca.org/sites/default/files/resources/50%20STATE%20COMPLETE%20REPORT%20PASSWORD%20AUG%202016_1.pdf (last visited January 6, 2017).

⁷⁸ The majority of telehealth definitions allow for both synchronous and asynchronous transmittal of information. Some definitions however omit asynchronous from the definition of telehealth.

⁷⁹ This is also referred to as "real time" or "interactive" telehealth.

⁸⁰ American Telemedicine Association, *Telemedicine Glossary*, available at <http://hub.americantelemed.org/resources/telemedicine-glossary> (last visited on January 9, 2017). The use of live video to evaluate and diagnosis a patient would be considered synchronous telehealth.

⁸¹ *Id.* A common example of synchronous telehealth is the transfer of x-rays or MRI images from one health care provider to another health care provider for review in the future.

⁸² *Id.*

⁸³ *Id.*

video, and other telecommunications and electronic information processing technologies to monitor the health status of a patient from a distance.⁸⁴ Telehealth more broadly includes non-clinical services, such as patient and professional health-related education, public health, and health administration.⁸⁵

Telehealth is not a type of health care service but rather is a mechanism for delivery of health care services. Health care professionals use telehealth as a platform to provide traditional health care services in a non-traditional manner. These services include, among others, preventative medicine and the treatment of chronic conditions.⁸⁶

Telehealth, in its modern form,⁸⁷ started in the 1960s in large part driven by the military and space technology sectors.⁸⁸ Specifically, telehealth was used to remotely monitor physiological measurements of certain military and space program personnel. As this technology became more readily available to the civilian market, telehealth began to be used for linking physicians with patients in remote, rural areas. As advancements were made in telecommunication technology, the use of telehealth became more widespread to include not only rural areas but also urban communities. Due to recent technology advancements and general accessibility, the use of telehealth has spread rapidly and is now becoming integrated into the ongoing operations of hospitals, specialty departments, home health agencies, private physician offices as well as consumer's homes and workplaces.⁸⁹ In fact, there are currently an estimated 200 telehealth networks, with 3,500 service sites in the U.S.⁹⁰

Telehealth is used to address several problems in the current health care system. Inadequate access to care is one of the primary obstacles to obtaining quality health care.⁹¹ This occurs in both rural areas and urban communities.⁹² Telehealth reduces the impact of this issue by providing a mechanism to deliver quality health care, irrespective of the location of a patient or a health care professional. Cost is another barrier to obtaining quality health care. This includes the cost of travel to and from the health care facility, as well as related loss of wages from work absences. Costs are reduced through telehealth by decreasing the time and distance required to travel to the health care professional. Two more issues addressed through telehealth are the reutilization of health care services and hospital readmission. These often occur due to a lack of proper follow-up care by the patient⁹³ or a chronic condition.⁹⁴ These issues however can potentially be avoided through the use of telehealth and telemonitoring.

Telehealth and Federal Law

Several federal laws and regulations apply to the delivery of health care services through telehealth.

Prescribing Via the Internet

Federal law specifically prohibits prescribing controlled substances via the Internet without an in-person evaluation. The federal regulation under 21 CFR §829 specifically states:

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ U.S. Department of Health and Human Services, *What is Telehealth?*, available at

<http://www.hrsa.gov/healthit/toolbox/RuralHealthITtoolbox/Telehealth/whatistelehealth.html> (last visited January 9, 2017).

⁸⁷ Historically, telehealth can be traced back to the mid to late 19th century with one of the first published accounts occurring in the early 20th century when electrocardiograph data were transmitted over telephone wires. See *supra* note 76.

⁸⁸ *Id.*

⁸⁹ American Telemedicine Association, *About Telemedicine*, available at <http://www.americantelemed.org/about/about-telemedicine> (last visited on January 9, 2017).

⁹⁰ American Telemedicine Association, *Telemedicine Frequently Asked Questions*, available at <http://www.americantelemed.org/main/about/telehealth-faqs-> (last visited January 9, 2017).

⁹¹ American Telemedicine Association, *Telemedicine Benefits*, available at <http://www.americantelemed.org/main/about/about-telemedicine/telemedicine-benefits>, (last visited January 9, 2017).

⁹² *Id.*

⁹³ Post-surgical examination subsequent to a patient's release from a hospital is a prime example. Specifically, infection can occur without proper follow-up and ultimately leads to a readmission to the hospital.

⁹⁴ For example, diabetes is a chronic condition which can benefit by treatment through telehealth.

No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

A valid prescription is further defined under the same regulation as one issued by a practitioner who has conducted an in-person evaluation. The in-person evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.⁹⁵ However, the Ryan Haight Online Pharmacy Consumer Protection Act,⁹⁶ signed into law in October 2008, created an exception for the in-person medical evaluation for telehealth practitioners. The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice.

Medicare Coverage

Specific telehealth⁹⁷ services delivered at designated sites are covered under Medicare. The Federal Centers for Medicare and Medicaid Services' regulations require both a distant site and a separate originating site (hub and spoke model) under their definition of telehealth. Asynchronous (store and forward) activities are only reimbursed under Medicare in federal demonstration projects.⁹⁸ To qualify for Medicare reimbursement, the originating site must be:

- Located in a federally defined rural county;
- Located in a health professional shortage area that is outside a Metropolitan Statistical Area (MSA)⁹⁹ or in a rural census tract; or
- Identified as a participant in a federal telemedicine demonstration project as of December 21, 2000.¹⁰⁰

In addition, an originating site must be one of the following location types as further defined in federal law and regulation:

- The office of a physician or practitioner;
- A critical access hospital;
- A rural health clinic;
- A federally qualified health center;
- A hospital;
- A hospital-based or critical access hospital-based renal dialysis center (including satellites);
- A skilled nursing facility; or
- A community mental health center.¹⁰¹

Protection of Personal Health Information

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information. Privacy rules were initially issued in 2000 by the U.S. Department of Health and Human

⁹⁵ 21 CFR §829(e)(2).

⁹⁶ Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).

⁹⁷ Medicare covers a broader set of services using the term telehealth. Medicare defines telehealth as the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision and information across distance.

⁹⁸ Only two states have a federal demonstration project that meets these qualifications, Hawaii and Alaska.

⁹⁹ A metropolitan statistical (MSA) is a core area containing a substantial population nucleus, as well as adjacent communities that have a high degree of economic and social integration with that core. Each MSA has at least one urbanized area with a population of at least 50,000. See U.S. Census Bureau, *About Metropolitan and Micropolitan Statistical Areas*, available at <https://www.census.gov/population/metro/about/> (last visited January 9, 2017).

¹⁰⁰ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(i).

¹⁰¹ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(ii).

Services and later modified in 2002.¹⁰² These rules address the use and disclosure of an individual's personal health information as well as create standards for information security. Only certain entities are subject to HIPAA's provisions. These "covered entities" include:¹⁰³:

- Health plans;
- Health care providers;
- Health care clearinghouses; and
- Business associates of any of the above.

Covered entities are obligated to meet HIPAA's requirements to ensure privacy and confidentiality personal health information, regardless of the method in which the medical service is delivered.

In 2009, the Health Information Technology for Economic Clinical Health (HITECH) Act was enacted as part of American Recovery and Reinvestment Act (ARRA).¹⁰⁴ The HITECH Act promoted electronic exchange and use of health information by investing \$20 billion in health information technology infrastructure and incentives to encourage doctors and hospitals to use health information technology.¹⁰⁵ HITECH was intended to strengthen existing HIPAA security and privacy rules.¹⁰⁶ It expanded HIPAA to entities not previously covered; specifically, "business associates" now includes Regional Health Information Organizations, and Health Information Exchanges.¹⁰⁷ Similarly, it made changes to the privacy rule to better protect personal health information held, transferred, or used by covered entities.¹⁰⁸

Under the provisions of HIPAA and the HITECH Act, a health care provider or other covered entity participating in the electronic exchange of personal health information are subject to HIPAA and HITECH. These federal laws apply to covered entities in Florida, regardless of whether there is an express reference to them in Florida law.

National Practitioner Data Bank

The National Practitioner Data Bank (NPDB) is a federal databank that serves as a repository of information about health care practitioners in the U.S.¹⁰⁹ Due to the perceived increase in medical malpractice litigation, Congress created the NPDB to improve the quality of medical care and restrict the ability of an incompetent physician or dentist to move from state to state without the disclosure or discovery of the physician's or dentist's previous damaging or incompetent performance.¹¹⁰

The information collected in the NPDB includes:

- Medical malpractice payments;
- Adverse licensing actions;
- Adverse actions related to clinical privileges;
- Adverse actions taken by the Drug Enforcement Administration (DEA) against a practitioners controlled substance registration;
- Exclusions from participation in Medicare, Medicaid, and other federal health care programs;

¹⁰² U.S. Department of Health and Human Services, *The Privacy Rule*, available at <http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/> (last visited January 9, 2017).

¹⁰³ U.S. Department of Health and Human Services, *For Covered Entities and Business Associates*, available at <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/> (last visited January 9, 2017).

¹⁰⁴ U.S. Department of Health & Human Services, *HITECH Act Enforcement Interim Final Rule*, available at <http://www.hhs.gov/hipaa/for-professionals/special-topics/HITECH-act-enforcement-interim-final-rule/index.html> (last visited January 9, 2017).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ U.S. Department of Health and Human Services, National Practitioner Data Bank, *About Us*, available at <https://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp> (last visited February 16, 2017).

¹¹⁰ U.S. Department of Health and Human Services, *NPDB Guidebook*, (April 2015), available at <https://www.npdb.hrsa.gov/resources/NPDBGuidebook.pdf> (last visited February 16, 2017).

- Negative actions or findings by peer review and private accreditation organizations;
- Actions taken by certain state agencies, such as law enforcement, Medicaid Fraud Control Units, or state agencies administering state health care programs; and
- Health-care related criminal convictions and civil judgments.¹¹¹

Certain entities are required to submit the above-referenced actions to the NDPB. These include medical malpractice payers, hospitals and other health care entities, state licensing agencies, health plans, peer review and private accreditation organizations, federal government agencies, federal and state law enforcement agencies, state Medicaid Fraud Control Units, and state agencies administering state health care programs.¹¹²

The information in the NPDB is not available to the general public and is limited to certain entities. Entities that may access the NPDB include:

- Hospitals and other health care entities;
- State licensing and certification authorities;
- State Medicaid Fraud Control Units;
- State agencies administering or supervising the administration of state health care programs;
- Agencies administering federal health care programs;
- Health plans;
- Medical malpractice payers;
- Health care practitioner or entities requesting information on themselves; and
- State and federal law enforcement agencies.¹¹³

Although, the database initially only contained information related to physicians and dentists, it now includes many other types of other health care practitioners.¹¹⁴

As a part of the licensure process, DOH queries the database at the time of initial licensure and at each biennial renewal.¹¹⁵

Telehealth Barriers

There are several barriers which impede the use of telehealth. These barriers include:¹¹⁶

- Lack of a standard definition for telehealth;
- Lack of standard regulations for the practice of telehealth;
- Licensure requirements which prohibit cross-state practice; and
- Restrictions on the location where telehealth services may be provided.

Standardized Definition

Lack of a standard definition¹¹⁷ presents a barrier to the use of telehealth. As previously noted, there is no universally accepted definition. A health care professional is left to speculate as to whether the service he or she is providing constitutes telehealth. This can have far-reaching consequences which range from a denial of reimbursement for the services provided to an inquiry as to whether the services provided equate to the unlicensed practice of medicine. Florida law does not define telehealth.

¹¹¹ *Id.*

¹¹² *Id.* at E-1.

¹¹³ *Id.* at C-2 – C-6. In a medical malpractice action, and under certain circumstances, an attorney may request information from NPDB for use in litigation against a hospital.

¹¹⁴ *Id.*

¹¹⁵ Telephone conversation with DOH staff on February 20, 2017.

¹¹⁶ Center for Connected Health Policy, The National Telehealth Policy Resource Center, *State Telehealth Laws and Medicaid Program Policies: A Comprehensive Scan of the 50 States and District of Columbia*, (March 2016), available at <http://www.cchpca.org/sites/default/files/resources/50%20State%20FINAL%20April%202016.pdf> (last visited January 9, 2017).

¹¹⁷ *Id.* No two states define telehealth exactly alike, although some similarities in language exist between certain states.

Standardized Regulations

The absence of a uniform regulatory structure governing the use of telehealth presents another barrier to its use. Currently, seven states¹¹⁸ do not have any statutory structure for the delivery of health care services through telehealth.¹¹⁹ This absence places the burden upon individual professionals to determine what is appropriate, and invites health professional licensing boards to fill the regulatory gap. This can lead to inconsistent regulation of telehealth amongst the varying health care professions and impede the use of telehealth.

For example, a common telehealth regulation is the requirement that a health care professional conduct an in-person examination of the patient prior to providing services via telehealth.¹²⁰ Many times an exception is expressly contained within the regulation which allows the in-person requirement to be met through telehealth.¹²¹ This exception, however, can vary by profession in the absence of a uniform regulation. For example, an audiologist may be authorized to conduct the initial evaluation through telehealth while a physical therapist is required to perform an in-person physical examination prior to providing services through telehealth. There may not be any reasonable justification for this disparate treatment.

Licensure

Licensure requirements present one of the greatest barriers to the use of telehealth. Currently, 30 states prohibit a health care professional from using telehealth to provide health care services unless the professional is licensed in the state where the patient is located.¹²² Most states have exceptions to this requirement, applicable only in certain limited circumstances, which include:¹²³

- Physician-to-physician consultations (not between practitioner and patient);
- Educational purposes;
- Residency training;
- Licensure in a border state;
- U.S. Military;
- Public health services; and
- Medical emergencies (Good Samaritan) or natural disasters.

Nine states require out-of-state licensed health care professionals to acquire a special telehealth license or certificate to provide health care services through telehealth to patients in those states.¹²⁴ Two of these states (Tennessee and Texas), however, only offer the telehealth license to physicians who are board-eligible or board-certified specialists.

In the absence of an exception or a state regulation authorizing otherwise, it appears that a health care professional must be licensed in the state where the patient is located to provide health care services through telehealth. Requiring health care professionals to obtain multiple state licenses to provide health care services through telehealth may be burdensome and may inhibit the use of telehealth across state borders.

¹¹⁸ Florida currently has no statutory framework for regulating health care services provided via telehealth. However, the Board of Medicine has promulgated rules establishing standards for telemedicine practice (see below).

¹¹⁹ Even amongst states with telehealth statutory regulations, no two states regulate telehealth in exactly the same manner. *Supra* note 116.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* This includes Florida.

¹²³ *Licensure and Scope of Practice FAQs*, Telehealth Resource Centers, <http://www.telehealthresourcecenter.org/toolbox-module/licensure-and-scope-practice> (last visited January 9, 2017).

¹²⁴ These states are Alabama, Louisiana, Maine, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, and Texas. Additionally, there are 12 states who have adopted the Interstate Medical Licensure Compact which allows for expedited licensure for licensed physicians whose state is a member of the compact. Those states are Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming. *Supra* note 116.

Location Restrictions

Generally, states impose two types of location restrictions. The first is a geographical restriction which limits the use of telehealth to certain designated areas within a state. For example, only individuals in areas designated as a rural area or a medically underserved area may be authorized to receive health care services through telehealth.

The second restriction relates to limitations on the specific location where telehealth services may be provided. The most common example of this type of limitation is the hub and spoke model.¹²⁵ Under this model, “hub” refers to the location to where the health care professional must be located while “spoke” refers to the location where the patient must be located.

The two types of restrictions are not mutually exclusive and are commonly used in conjunction. This presents a significant obstacle to access to care by placing arbitrary restrictions on the use of telehealth which inhibits the effectiveness, as well as the use of telehealth to deliver health care services.

Telehealth in Florida

Florida does not have a statutory structure for the delivery of health care services through telehealth.¹²⁶ References to telehealth in the Florida Administrative Code relate to the Board of Medicine,¹²⁷ the Board of Osteopathic Medicine,¹²⁸ the Child Protection Team program,¹²⁹ and the Florida Medicaid program.¹³⁰

Florida Board of Medicine

In 2003, the Florida Board of Medicine (Board) adopted Rule 64B8-9.014, F.A.C., “Standards for Telemedicine Prescribing Practice” (Rule).¹³¹ The Rule sets forth requirements and restrictions for physicians and physician assistants prescribing medications.¹³² The Rule also states that telemedicine “shall include, but is not limited to, prescribing legend drugs to patients through the following modes of communication: (a) Internet; (b) Telephone; and (c) Facsimile.”¹³³ The Rule, however, fails to fully define telemedicine and does not regulate its use in any other way. The Board only regulates allopathic physicians, so this rule does not apply to any other profession.¹³⁴

In 2014, the Board adopted a new rule¹³⁵ setting forth standards for telemedicine.¹³⁶ The new rule defines telemedicine as the practice of medicine by a licensed Florida physician or physician assistant where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications.¹³⁷ The definition could be

¹²⁵ Florida’s Department of Health’s Children’s Medical Services Program (CMS) currently uses the hub and spoke model to provide services via telehealth to children enrolled in the program.

¹²⁶ The only references to telehealth in the Florida Statutes are in ss. 364.0135, 381.885, and 394.453, F.S. Section 364.0135, F.S., relates to broadband internet services and does not define or regulate telehealth in any manner. Section 381.885, F.S., relates to epinephrine auto-injectors and expressly states that consultation for the use of the auto-injector through electronic means does not constitute the practice of telemedicine. Section 394.453, F.S., provides legislative intent for the Florida Mental Health Act, in which the Legislature finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

¹²⁷ Rule 64B8-9.0141, F.A.C.

¹²⁸ Rule 64B15-14.0081, F.A.C.

¹²⁹ Rule 64C-8.003, F.A.C.

¹³⁰ Rule 59G-1.057, F.A.C.

¹³¹ The current telemedicine rules and regulations for the Board of Medicine and the Board of Osteopathic Medicine are virtually identical. Rules 64B8-9.0141 and 64B15-14.0081, F.A.C.

¹³² Rule 64B8-9.0141, F.A.C.

¹³³ *Id.*

¹³⁴ The Board of Osteopathic Medicine rule only applies to osteopathic physicians.

¹³⁵ The Board of Medicine and the Board of Osteopathic Medicine rules for telemedicine are virtually identical.

¹³⁶ Rule 64B8-9.0141, F.A.C.

¹³⁷ *Id.*

interpreted to limit the use of telemedicine to physicians and physician assistants; however, the Board does not have the authority to regulate other professions.¹³⁸ The new rule provides that:¹³⁹

- The standard of care is the same as that required for services provided in person;
- A physician-patient relationship may be established through telemedicine;
- A physician or physician assistant is responsible for the quality and safety of the equipment and used to provide services through telemedicine; and
- The same patient confidentiality and record-keeping requirements applicable to in-person services are applicable to services provided through telemedicine.

The new rule prohibits physicians and physician's assistants from providing treatment recommendations, including issuing a prescription, through telemedicine unless the following has occurred:¹⁴⁰

- A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed;
- A discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment; and
- Contemporaneous medical records are maintained.

The new rule prohibits prescribing controlled substances through telemedicine except for the treatment of psychiatric disorders.¹⁴¹ However, the new rule does not preclude physicians from ordering controlled substances through the use of telemedicine for patients hospitalized in a facility licensed pursuant to 395, F.S.¹⁴²

Telehealth Advisory Council

In 2016, the Legislature passed House Bill 7087,¹⁴³ which created a 15-member Telehealth Advisory Council to make recommendations to increase the use and accessibility of services provided via telehealth, as well as any implementation or access barriers, to the Legislature and the Governor. The recommendations are to be based on a report prepared by the Agency for Healthcare Administration (AHCA), along with the Department of Health (DOH), and the Office of Insurance Regulation (OIR) regarding telehealth utilization and coverage. The bill required the agencies to conduct a survey of health care practitioners, health care facilities, and insurers to collect the following information:

- The types of health care services provided via telehealth;
- The extent to which telehealth is used by telehealth is used by health care practitioners and health care facilities nationally and in the state;
- The estimated costs and cost savings to health care entities, health care practitioners, and the state associated with the use of telehealth to provide health care services; and
- Which health care insurers, health maintenance organizations, and managed care organizations cover health care services provide to patients in this state via telehealth, whether the coverage is restricted or limited, and how such coverage compares to that insurer's coverage for services provided in person.

In December 2016, AHCA issued a report on the results of the surveys conducted that addressed accessibility and usage of telehealth services in this state, as well as research findings.¹⁴⁴ Of the 11,900 health care facilities surveyed by AHCA, 49 percent responded to the survey; all of the 54

¹³⁸ The Board of Osteopathic Medicine definition only applies to osteopathic physicians.

¹³⁹ *Supra* note 136.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Chapter 2016-240, Laws of Fla.

¹⁴⁴ Agency for Health Care Administration, *Florida Report on Telehealth Utilization and Accessibility*, (December 2016), available at http://www.ahca.myflorida.com/SCHS/telehealth/docs/Telehealth_Report_Final.pdf (last visited January 10, 2017).

health plans surveyed by OIR responded to the survey; and DOH received 26,579 responses to its survey.

Among health care facilities surveyed by AHCA, approximately 45% of hospitals responding to the survey offer telehealth services through their facilities.¹⁴⁵ The facilities indicated that the benefits of providing services using telehealth included patient convenience, better care coordination, better patient outcomes, and better access to specialists. Health care facilities use telehealth most often to diagnose and treat patients, provide emergency care, or to provide or obtain a second opinion. The health care facilities also identified the greatest barriers to services using telehealth. The ongoing challenges for offering telehealth include, among other things, lack of health insurance reimbursement for services provided using telehealth, lack of funding for telehealth equipment, and an inability to determine the return on investment.

Although a national survey of health care executives in 2016 reported 63 percent of health care practitioners provide some services via telehealth, the survey conducted by DOH found that only six percent of the responding health care practitioners in Florida use telehealth to provide health care services.¹⁴⁶ The health care practitioners indicated that the major factors in adopting the use of telehealth in their private practice include the lack of insurance reimbursement for services provided using telehealth, lack of funding for telehealth equipment, and inability to determine return on investment.¹⁴⁷

OIR found that 43 percent of Florida health insurers cover some form of telehealth services.¹⁴⁸ However, that coverage is usually very limited. Unlike 29 other states, Florida does not have any statutory requirements that coverage and reimbursement for telehealth services be covered the same as face-to-face services. The surveyed health plans indicated that the greatest barriers to covering and reimbursing for services provided using telehealth include government regulation,¹⁴⁹ concerns with liability, costs of the still evolving technology, and a need to significantly change payment and reimbursement guidelines.

The final report of the Telehealth Advisory Council of its recommendations is due to the Governor and Legislature on or before October 31, 2017.

Child Protection Teams

A Child Protection Team (CPT) is a medically directed multi-disciplinary group that works with local sheriffs' offices and the Department of Children and Families to supplement investigative activities in cases of child abuse and neglect.¹⁵⁰ The CPT program within the Children's Medical Services (CMS) program utilizes a telehealth network to perform child assessments. The use of telemedicine¹⁵¹ under this program requires the presence of a CMS approved physician or advanced registered nurse practitioner at the hub site and a registered nurse at the remote site to facilitate the evaluation.¹⁵² In 2014, CPT telehealth services were available at nine sites and 667 children were provided medical or other assessments via telehealth technology.¹⁵³

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* This includes issues of interstate practice since each state is responsible for licensing the health care practitioners that provide services in its state.

¹⁵⁰ Florida Department of Health, *Child Protection Teams*, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited February 2, 2017).

¹⁵¹ Rule 64C-8.001(5), F.A.C., defines telemedicine as "the use of telecommunication and information technology to provide clinical care to individuals at a distance and to transmit the information needed to provide that care."

¹⁵² Rule 64C-8.003(3), F.A.C.

¹⁵³ Florida Department of Health, *Maternal and Child Health Block Grant Narrative for 2014*, available at <http://www.floridahealth.gov/healthy-people-and-families/womens-health/pregnancy/mch-fl-2013-1narrative.pdf>, p.21, (last visited: January 10, 2017).

Florida Emergency Trauma Telemedicine Network

Various designated trauma centers participate in the Florida Emergency Trauma Telemedicine Network (FETTN). Coordinated by the Department of Health (DOH), the FETTN facilitates the treatment of trauma patients between trauma centers and community or rural hospitals.¹⁵⁴ The FETTN allows for multiple interface options and currently 7 out of 25 trauma centers are part of the network.¹⁵⁵ In 2011-12, the seven Level 1 or Level 2 trauma centers that participated as a hub site, known as the location where the consulting physician is delivering the services, were Holmes Regional Medical Center, Tallahassee Memorial Hospital, Sacred Heart Hospital, University of Miami, Shands-Gainesville, Shands-Jacksonville, and Orlando Health.¹⁵⁶

Tuberculosis Physician's Network

The DOH utilizes tele-radiology through the Tuberculosis Physician's Network.¹⁵⁷ The ability to read electronic chest X-Rays remotely can lead to a faster diagnosis, treatment and a reduction in the spread of the disease, according to DOH. This service is not currently reimbursed by Medicaid.

Florida Medicaid Program

Under the Medicaid Medical Assistance (MMA) Program implemented in 2014, the vast majority of Medicaid recipients are covered through managed care. Florida Medicaid, in its fee-for-service delivery system, reimburses for telehealth services using interactive telecommunications equipment that includes, at a minimum audio and video equipment that permits two-way, real time, interactive communication between a patient and a practitioner.¹⁵⁸ Not only may MMA plans use telehealth for behavioral health, dental, and physician services as before, but upon approval by AHCA, may also use telehealth to provide other covered services.¹⁵⁹

Jurisdiction and Venue

A Florida court has jurisdiction over a resident health care practitioner due to his or her presence in the state. For a nonresident health care profession, a Florida patient must establish in court that:

1. The health care practitioner subjected himself or herself to jurisdiction through Florida's long-arm statute; and
2. The health care practitioner had sufficient minimum contacts with the state so that he or she could reasonably anticipate being haled into court in Florida.¹⁶⁰

Under the long-arm statute, any health care practitioner (irrespective of whether he or she is a resident of the state) who commits certain enumerated acts is subject to the jurisdiction of the courts of Florida.¹⁶¹ Such acts include:

- Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state;
- Committing a tortious act within this state;

¹⁵⁴ Florida Department of Health, 2014 Agency Legislative Bill Analysis of HB 167, on file with the Florida House of Representative's Select Committee on Health Care Workforce Innovation (October 21, 2013).

¹⁵⁵ *Id.*

¹⁵⁶ Florida Department of Health, *Long Range Program Plan* (September 28, 2012), on file with the Health and Human Services Committee.

¹⁵⁷ *Id.*

¹⁵⁸ Rule 59G-1.057, F.A.C.

¹⁵⁹ Agency for Health Care Administration, Model Contract, Attachment II, Exhibit II A, Medicaid Managed Medical Assistance Program, (November 2016), available at http://ahca.myflorida.com/Medicaid/statewide_mc/plans.shtml (last viewed February 2, 2017).

¹⁶⁰ *Venetian Salami Co. v. Parthenais*, 554 So.2d 499, 501 (Fla. 1989).

¹⁶¹ Section 48.193(1), F.S.

- Causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time of the injury, the health care practitioner was engaged in solicitation or service activities in this state; and
- Breaching a contract in this state by failing to perform act required by the contract to be performed in this state.¹⁶²

“Venue” refers to the geographical area, that is the county or district, where a cause may be heard or tried.¹⁶³ For Florida residents, actions may be brought in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located.¹⁶⁴ An action against a nonresident may be brought in any county of the state.¹⁶⁵

Service of process on a person outside of the state may be made by any officer authorized to serve process in the state where the person is served.¹⁶⁶

Insurance Premium Tax and Credits

Florida’s insurance premium tax was established in 1895 as an annual tax of 1% of gross receipts of insurance premiums (except for life insurance) on each insurance company doing business within the state.¹⁶⁷ Today, the insurance premium tax is set at 1.75% on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).¹⁶⁸ It is estimated that DOR will collect \$739.5 million in insurance premium tax in FY 2016-17.¹⁶⁹ This revenue is distributed to general revenue and various trust funds:¹⁷⁰

Fiscal Year	Receipts		Distributions [†]			
	Collections	Annual Change	General Revenue	Insurance Regulatory Trust Fund	Police & Firefighters Premium Tax Trust Fund	Emergency Management Preparedness & Assistance Trust Fund
2016-17*	\$739,500,000	1.29%	\$495,700,000	\$37,500,000	\$186,400,000	\$13,500,000
2015-16*	\$730,100,000	5.98%	\$495,900,000	\$36,200,000	\$178,700,000	\$14,300,000
2014-15	\$688,898,528	-3.23%	\$466,500,000	\$39,400,000	\$181,100,000	\$14,800,000
2013-14	\$711,866,203	1.43%	\$470,500,000	\$39,700,000	\$173,100,000	\$13,600,000

* Estimate
[†] Distributions do not equal collections due to beginning and ending cash balances and refunds.

Section 624.5091, F.S., requires out of state insurance to pay retaliatory taxes to the state.¹⁷¹ These retaliatory taxes are levied in almost every state¹⁷² and help ensure a level playing field by preventing companies from choosing to locate in one state in order to lower their insurance premium taxes.¹⁷³ Insurance companies are permitted to receive an employees’ salary credit and corporate income tax credit against insurance premium taxes.^{174,175}

¹⁶² *Id.*

¹⁶³ *Metnick & Levy, P.A. v. Seuling*, 123 So.3d 639 (Fla. 4th DCA 2013).

¹⁶⁴ Section 47.011, F.S.

¹⁶⁵ *Supra* note 163. This is subject to the doctrine of forum non conveniens.

¹⁶⁶ Section 48.194, F.S.

¹⁶⁷ Chapter 4322, Laws of Fla., codified as Title VI, ch. 1, s. 464, F.S.

¹⁶⁸ Section 624.509, F.S.

¹⁶⁹ Florida Revenue Estimating Conference, “2016 Florida Tax Handbook,” p. 112, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2016.pdf> (last visited February 2, 2017).

¹⁷⁰ *Id.*

¹⁷¹ Section 624.5091, F.S.

¹⁷² *Supra* note 169, at 115.

¹⁷³ Office of Program Analysis and Government Accountability, *The Corporate Income Tax Credit Scholarship Program Saves the State Dollars*, Report No. 08-68, December 2008, available at <http://www.oppaga.state.fl.us/reports/pdf/0868rpt.pdf> (last visited January 26, 2017).

¹⁷⁴ Section 624.509(4), F.S.

¹⁷⁵ Section 624.509(5), F.S.

Florida Employee Salaries Credit

In 1985, the U.S. Supreme Court ruled in *Metropolitan Life Insurance Company v. Ward*¹⁷⁶ that a domestic preference provision in Alabama's insurance tax law similar to the preference provision in Florida at the time violated the Equal Protection Clause. Florida and other states looked for ways to provide tax breaks to their domestic insurance companies that would pass constitutional muster, and the Florida Legislature responded by repealing its own domestic preference provision and replacing it with an employees' salary credit equal to 15% of the amount of salaries paid to employees located in Florida.¹⁷⁷

In FY 2016-17 the employees' salary credit is estimated to reduce insurance premium tax revenue to DOR by \$297.38 million.¹⁷⁸

Corporate Income Tax and Credit

Florida imposes a 5.5% tax on the taxable income of all corporations doing business in the state.¹⁷⁹ The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.¹⁸⁰ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies to determine Florida taxable income. The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.¹⁸¹ Income that is apportioned to Florida using this formula is then subject to the Florida income tax.

Corporate income taxes paid by any insurer are credited against the liability for insurance premium tax for the annual period in which such tax payments are made.¹⁸² The total of the credit granted for corporate income taxes¹⁸³ and the Florida employees salary credit may not exceed 65 percent of the insurance premium tax due after deducting taxes paid by the insurer for certain pension funds and assessments.¹⁸⁴

In FY 2016-17, the corporate income tax credit is estimated to reduce insurance premium tax revenue by \$157.6 million.¹⁸⁵

Effect of Proposed Changes

Advanced Practice Registered Nurses

The bill changes the term "advanced registered nurse practitioner" to "advanced practice registered nurse" (APRN) throughout Florida Statutes. The bill also authorizes an APRN to certify a person for involuntary examination under the Baker Act.¹⁸⁶

¹⁷⁶ 470 U.S. 869, 105 S.Ct. 1676.

¹⁷⁷ *Supra* note 175.

¹⁷⁸ *Supra* note 169, at 115.

¹⁷⁹ Section 220.11, F.S.

¹⁸⁰ Sections 220.12 and 220.13, F.S.

¹⁸¹ s. 220.15, F.S.

¹⁸² Florida Senate Committee on Finance and Tax, *An Overview of Florida's Insurance Premium Tax*, October 2006, available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last accessed January 26, 2017).

¹⁸³ Section 624.509(4), F.S.

¹⁸⁴ *Id.*

¹⁸⁵ *Supra* note 169, at 115.

¹⁸⁶ The Baker Act is also titled the "Florida Mental Health Act" under s. 394.451, F.S.

Independent Advanced Practice Registered Nurses

The bill allows an APRN who meets certain eligibility criteria to register as an "Independent Advanced Practice Registered Nurse." The bill establishes title protection for this new title.

To register as an Independent Advanced Practice Registered Nurse (IAPRN), the applicant must hold an active and unencumbered APRN certificate under s. 464.012, F.S., pay an application fee set by the Board (not to exceed \$100), and must have:

- Completed, in any U.S. jurisdiction, at least 4,000 clinical practice hours supervised by an actively licensed physician;
- Completed at least 2,000 clinical practice hours within the 3-year period immediately before submission of the application. If these hours are supervised, they may count toward meeting the requirement of completing 4,000 clinical practice hours supervised, as indicated above.
- Not been subject to any disciplinary action during the five years immediately preceding the application; and
- Completed a graduate level course in pharmacology.

To maintain their registration, IAPRNs must complete at least 10 hours of continuing education approved by the Board in pharmacology prior to biennial renewal, unless an exception applies for the first biennial renewal. APRNs registered as IAPRNs must also ensure that their practitioner profiles created by the Department of Health reflect their registration as an IAPRN.

IAPRNs are authorized to perform any act currently authorized for APRNs, but may perform such acts without the supervision of a physician or a written protocol. In addition to those acts, an IAPRN may independently and without supervision or a written protocol perform the following acts:

- Admit, discharge, or manage the care of a patient requiring the services of a health care facility.
- Provide a signature, certification, stamp, verification, affidavit, or other endorsement that is otherwise required by law to be provided by a physician.
- Certify causes of death and sign, correct, and file death certificates.
- Act as a patient's primary care provider.
- Execute a certificate to subject a person to involuntary examination under the Baker Act.
- Examine, and approve the release of, a person admitted into a receiving facility under the Baker Act, if the IAPRN holds a national certification as a psychiatric-mental health advanced practice nurse.
- Perform certain physical examinations currently reserved to physicians and physician assistants by Florida law, such as examinations of pilots, law enforcement officers, and suspected child abuse victims.

The bill imposes safeguards to ensure IAPRNs safely prescribe controlled substances and are held accountable if they do otherwise. Specifically, IAPRNs:

- Must report adverse incidents attributable to the prescription of a controlled substance. Adverse incidents are only those events that require the transfer of a patient to a hospital or cause permanent physical injury or death.
- May be administratively disciplined for several delineated prohibited acts related to inappropriate prescribing practices.
- Are required to register as prescribers of controlled substances for chronic nonmalignant pain, if they prescribe such substances, and must meet statutory requirements related to treatment plans, recordkeeping, patient examinations, written agreements, and referrals.
- Must comply with the prescribing and dispensing requirements and limitations under the Florida Comprehensive Drug Abuse Prevention and Control Act.¹⁸⁷

In addition, the bill provides for several other accountability measures for IAPRNs by:

- Requiring IAPRNs to maintain malpractice insurance or prove financial responsibility as provided by Board rule to ensure claims due to malpractice are covered;
- Authorizing the Board to administratively discipline IAPRNs for several delineated prohibited acts related to relationships with patients, business practices, and nursing practices; and
- Subjecting IAPRNs to accountability provisions included in the Florida Patient's Bill of Rights and Responsibilities.¹⁸⁸

Physician Assistants

The bill expands the scope of practice for PAs to authorize them to:

- Perform physical examinations to detect child abuse or neglect and for purposes of pilot certification;
- Certify a person for involuntary examination under the Baker Act; and
- File death certificates and certify a cause of death.

The bill also requires PAs to comply the Florida Patient's Bill of Rights and Responsibilities Act.

The bill also authorizes PAs to participate in the Public School Volunteer Health Care Practitioner Program. This program allows any participating health care practitioner who agrees to provide his or her services, without compensation, in a public school for at least 80 hours a year for each school year during the biennial licensure period to be eligible for waiver of the biennial license renewal fee for an active license and fulfillment of a maximum of 25 percent of the continuing education hours required for license renewal under s. 456.013(9), F.S.

Telehealth

The bill creates s. 456.47, F.S., relating to the use of telehealth to provide health care services.

"Telehealth" is defined in the bill to mean the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services including, but not limited to, patient assessment, diagnosis, consultation, and treatment, monitoring transfer of medical data, patient and professional health-related education, public health services, and health administration. The definition of telehealth does not include audio-only telephone calls, e-mail messages, or facsimile transmissions. Thus, health care professionals can use telehealth to provide services to patients through both "live" and "store and forward" methods. It also authorizes the use of telemonitoring. The definition does not place any additional limitations on the type of technology that can be used in telehealth. However, both HIPAA and HITECH continue to apply to covered entities.

Telehealth Providers

The bill defines "telehealth provider" as any person who provides health care related services using telehealth and who is licensed in Florida or is an out-of-state health care registered and is in compliance with the requirements of this bill. Florida licensed telehealth providers must be one of the following professionals:¹⁸⁹

- Behavior analyst;
- Acupuncturist;
- Allopathic physician;

¹⁸⁸ Section 381.026, F.S., requires health care providers to provide patients with certain information related to qualifications, diagnosis, treatment, grievance procedures, and service charges. Also, health care providers are prohibited from discriminating against a patient for specified reasons and must respect a patient's privacy under this law.

¹⁸⁹ These are professionals licensed under s. 393.17; part III, ch. 401; ch. 457; ch. 458; ch. 459; ch. 460; ch. 461; ch. 463; ch. 464; ch. 465; ch. 466; ch. 467; part I, part III, part IV, part V, part X, part XIII, and part XIV, ch. 468; ch. 478; ch. 480; part III, part IV, ch. 483; ch. 484; ch. 486; ch. 490; or ch. 491.

- Osteopathic physician;
- Chiropractor;
- Podiatrist;
- Optometrist;
- Nurse;
- Pharmacist;
- Dentist;
- Dental Hygienist;
- Midwife;
- Speech therapist;
- Occupational therapist;
- Radiology technician;
- Electrologist;
- Orthotist;
- Pedorthist;
- Prosthetist;
- Medical physicist;
- Emergency Medical Technician;
- Paramedic;
- Massage therapist;
- Optician;
- Hearing aid specialist;
- Clinical laboratory personnel;
- Respiratory therapist;
- Physical therapist;
- Psychologist;
- Psychotherapist;
- Dietician/Nutritionist;
- Athletic trainer;
- Clinical social worker;
- Marriage and family therapist; or
- Mental health counselor.

Out-of-state telehealth providers must register biennially with DOH or the applicable board to provide telehealth services, within the relevant scope of practice established by Florida law and rule, to patients in this state. To register or renew registration as an out-of-state telehealth provider, the health care professional must:

- Submit an application to DOH;
- Pay a \$150 registration fee;
- Hold an active unencumbered license, consistent with the definition of “telehealth provider” listed above, in a U.S. state or jurisdiction and against whom no disciplinary action has been taken during the five years before submission of the application; and
- Never have had a license revoked in any U.S. state or jurisdiction.

The bill prohibits an out-of-state telehealth provider from opening an office in Florida and from providing in-person health care services to patients located in Florida.

The bill requires out-of-state telehealth providers to notify the applicable board or DOH of restrictions placed on the health care professional’s license to practice or disciplinary actions taken against the health care practitioner within 5 days after such occurrence.

The bill authorizes a board, or DOH if there is no board, to revoke an out-of-state telehealth provider’s registration if the registrant:

- Fails to notify DOH of any adverse actions taken against his or her license within 5 days after such adverse action;
- Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction; or
- Violates any of the requirements for the registration of out-of-state telehealth providers.

The bill requires DOH to publish on its website the name of each registered out-of-state telehealth provider. It must also include the following background information, to the extent applicable, for each registrant:

- Health care occupation;
- Completed health care training and education, including completion dates and any certificates or degrees obtained;
- Out-of-state health care license with license number;
- Florida telehealth provider registration number;
- Specialty;
- Board certification;
- 5 year disciplinary history, including sanctions and board actions; and
- Medical malpractice insurance provider and policy limits, including whether the policy covers claims which arise in this state.

Telehealth Provider Standards

The bill establishes that the standard of care for telehealth providers is the same as the standard of care for health care practitioners or health care providers providing in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services.

Under the bill a telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before providing telehealth services to the patient if the telehealth provider is capable of conducting a patient evaluation in a manner consistent with the applicable standard of care sufficient to diagnose and treat the patient when using telehealth. The bill also allows the evaluation to be performed using telehealth.

The bill provides that a patient receiving telehealth services may be in any location at the time that the telehealth services are rendered and that a telehealth provider may be in any location when providing telehealth services to a patient.

The bill allows health care providers who are authorized to prescribe a controlled substance to use telehealth to prescribe controlled substances. Telehealth may not be used to prescribe a controlled substance to treat chronic nonmalignant pain, unless ordered by a physician for an inpatient admitted to a facility licensed under ch. 395, F.S., prescribed for a patient receiving hospice services as defined under s. 400.601, F.S., or prescribed for a resident of a nursing home facility as defined under s. 400.021(12), F.S.

The bill requires that a telehealth provider document the telehealth services rendered in the patient's medical records according to the same standard as that required for in-person services. The bill requires that such medical records be kept confidential consistent with ss. 395.3025(4) and 456.057, F.S. Section 456.057, F.S., relates to all licensed health care professionals while s. 395.3025(4), F.S., relates to all health care facilities licensed under ch. 395 (hospitals, ambulatory surgical centers, and mobile surgical centers). Thus, the same confidentiality requirements placed upon health care facilities and health care practitioners for medical records generated as part of in-person treatment apply to any medical records generated as part of treatment rendered through telehealth.

The bill provides that a non-physician telehealth provider using telehealth and acting within the applicable scope of practice, as established under Florida law, may not be interpreted as practicing medicine without a license.

The bill establishes, for jurisdictional purposes, that any act that constitutes the delivery of health care services shall be deemed to occur at the place where the patient is located at the time the act is performed. This will assist a patient in establishing jurisdiction and venue in Florida in the event he or she pursues a legal action against the telehealth provider.

The bill provides exceptions to the registration requirement for emergencies or for consultations between health care practitioners.

The bill requires a registered telehealth provider, who is a pharmacist, to use a pharmacy holding a Florida permit, a nonresident pharmacy registered in Florida, or a nonresident pharmacy or outsourcing facility holding a nonresident sterile compounding permit to dispense medicinal drugs to Florida patients.

The bill authorizes DOH or an applicable board to adopt rules to administer the requirements related to telehealth set forth in the bill.

Telehealth Tax Credit

For tax years beginning on or after January 1, 2018, the bill creates a telehealth tax credit for any health insurer or health maintenance organization (HMO) that cover services provided by telehealth. The tax credit maybe taken against any corporate income tax or insurance premium tax liability incurred by a health insurer or HMO. The tax credit is one tenth of one percent of the total insurance premiums received on accident or health insurance policy or plans issued in Florida that provide medical, major medical, or similar comprehensive coverage. The Office of Insurance Regulation (OIR) must confirm the coverage to the Department of Revenue (DOR). The bill authorizes an unused tax credit or portion thereof to be carried forward for a period not to exceed five years.

The bill authorizes DOR, in addition to its existing audit and investigation authority, additional authority to perform financial and technical audits and investigations to verify eligibility for the telehealth tax credit. Such audits and investigations may include examining the accounts, books, and records of the health insurer or HMO. The bill also directs OIR to provide technical assistance upon request by DOR on any audits or investigations it performs. If DOR discover that a health insurer or health maintenance organization received a telehealth tax credit for which it was not entitle, DOR is authorized to pursue recovery of the funds in accordance to the law.

The bill authorizes a health insurer or HMO to transfer a telehealth tax credit in whole or in part to another insurer by written agreement. To perfect the transfer, the transferor must provide a written statement to DOR that states:

- The transferor's intent to transfer the tax credit to the transferee;
- The date the transfer is effective;
- The transferee's name, address, and federal taxpayer identification number;
- The tax period; and
- The amount the tax credit to be transferred.

Upon receipt of the transfer statement, DOR will issue a certificate reflecting the transferred credit amount, a copy of which must be attached to each tax return for which the transferee seeks to apply the credit.

An insurer that claims the telehealth tax credit is not required to pay any additional retaliatory tax, as a result of claiming such a credit.

DOR and the Office of Insurance Regulation are authorized to adopt rules to administer the telehealth tax credit, including rules regarding implementation and administration of the tax credit and forms needed to claim the telehealth tax credit.

The bill provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 456.47, F.S., relating to the use of telehealth to provide services.
- Section 2:** Provides an appropriation.
- Section 3:** Creates s. 220.197, F.S., relating to the telehealth tax credit.
- Section 4:** Amends s. 624.509, F.S., relating to the premium tax; rate and computation.
- Section 5:** Amends s. 464.003, F.S., relating to definitions.
- Section 6:** Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners; fees; and controlled substance prescribing.
- Section 7:** Creates s. 464.0125, F.S., relating to registration of independent advanced practice registered nurses and fees.
- Section 8:** Amends s. 464.015, F.S., relating to titles and abbreviations; restrictions; and penalty.
- Section 9:** Creates s. 464.0155, F.S., relating to reports of adverse incidents by independent advanced practice registered nurses.
- Section 10:** Amends s. 464.016, F.S., relating to violations and penalties.
- Section 11:** Amends s. 464.018, F.S., relating to disciplinary actions.
- Section 12:** Amends s. 39.303, F.S., relating to child protection teams; services; and eligible cases.
- Section 13:** Amends s. 39.304, F.S., relating to photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.
- Section 14:** Amends s. 90.503, F.S., relating to psychotherapist-patient privilege.
- Section 15:** Amends s. 110.12315, F.S., relating to the prescription drug program.
- Section 16:** Amends s. 112.0455, F.S., relating to the Drug-Free Workplace Act.
- Section 17:** Amends s. 121.0515, F.S., relating to Special Risk Class.
- Section 18:** Amends s. 252.515, F.S., relating to the Postdisaster Relief Assistance Act; immunity from civil liability.
- Section 19:** Amends s. 310.071, F.S., relating to deputy pilot certification.
- Section 20:** Amends s. 310.073, F.S., relating to state pilot licensing.
- Section 21:** Amends s. 310.081, F.S., relating to department to examine and license state pilots and certificate deputy pilots; vacancies.
- Section 22:** Amends s. 320.0848, F.S., relating to persons who have disabilities, issuance of disabled parking permits, temporary permits, and permits for certain providers of transportation services to persons who have disabilities.
- Section 23:** Amends s. 381.00315, F.S., relating to public health advisories, public health emergencies; isolation and quarantines.
- Section 24:** Amends s. 381.00593, F.S., relating to public school volunteer health care practitioner program.
- Section 25:** Amends s. 381.026, F.S., relating to Florida Patient's Bill of Rights and Responsibilities.
- Section 26:** Amends s. 382.008, F.S., relating to death and fetal death registration.
- Section 27:** Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.
- Section 28:** Amends s. 383.141, F.S., relating to prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; and advisory council.
- Section 29:** Amends s. 384.27, F.S., relating to physical examination and treatment.
- Section 30:** Amends s. 390.0111, F.S., relating to termination of pregnancies.
- Section 31:** Amends s. 390.012, F.S., relating to powers of agency; rules; and disposal of fetal remains.
- Section 32:** Amends s. 394.455, F.S., relating to definitions.
- Section 33:** Amends s. 394.463, F.S., relating to involuntary examination.
- Section 34:** Amends s. 395.0191, F.S., relating to staff membership and clinical privileges.
- Section 35:** Amends s. 395.602, F.S., relating to rural hospitals.
- Section 36:** Amends s. 395.605, F.S., relating to emergency care hospitals.
- Section 37:** Amends s. 397.311, F.S., relating to definitions.
- Section 38:** Amends s. 397.405, F.S., relating to exemptions from licensure.
- Section 39:** Amends s. 397.427, F.S., relating to medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; and penalty.

- Section 40:** Amends s. 397.501, F.S., relating to rights of individuals.
- Section 41:** Amends s. 397.679, F.S., relating to emergency admission; circumstances justifying.
- Section 42:** Amends s. 397.6793, F.S., relating to professional's certificate for emergency admission.
- Section 43:** Amends s. 400.021, F.S., relating to definitions.
- Section 44:** Amends s. 400.0255, F.S., relating to resident transfer or discharge; requirements and procedures; and hearings.
- Section 45:** Amends s. 400.172, F.S., relating to respite care provided in nursing home facilities.
- Section 46:** Amends s. 400.462, F.S., relating to definitions.
- Section 47:** Amends s. 400.487, F.S., relating to home health service agreements; physician's, physician assistants, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services, and orders not to resuscitate.
- Section 48:** Amends s. 400.506, F.S., relating to licensure of nurse registries; requirements; and penalties.
- Section 49:** Amends s. 400.9905, F.S., relating to definitions.
- Section 50:** Amends s. 400.9973, F.S., relating to client admission, transfer, and discharge.
- Section 51:** Amends s. 400.9974, F.S., relating to client comprehensive treatment plans; client services.
- Section 52:** Amends s. 400.9976, F.S., relating to administration of medication.
- Section 53:** Amends s. 400.9979, F.S., relating to restraint and seclusion; client safety.
- Section 54:** Amends s. 401.445, F.S., relating to emergency examination and treatment of incapacitated persons.
- Section 55:** Amends s. 409.905, F.S., relating to mandatory Medicaid services.
- Section 56:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 57:** Amends s. 409.9081, F.S., relating to copayments.
- Section 58:** Amends s. 409.973, F.S., relating to benefits.
- Section 59:** Amends s. 429.26, F.S., relating to appropriateness of placements and examinations of residents.
- Section 60:** Amends s. 429.918, F.S., relating to licensure designation as a specialized Alzheimer's services adult day care center.
- Section 61:** Amends s. 440.102, F.S., relating to drug-free workplace program requirements.
- Section 62:** Amends s. 456.0391, F.S., relating to advanced registered nurse practitioners; information required for certification.
- Section 63:** Amends s. 456.0392, F.S., relating to prescription labeling.
- Section 64:** Amends s. 456.041, F.S., relating to practitioner profile and creation.
- Section 65:** Amends s. 456.048, F.S., relating to financial responsibility requirements for certain health care practitioners.
- Section 66:** Amends s. 456.053, F.S., relating to financial arrangements between referring health care providers and providers of health care services.
- Section 67:** Amends s. 456.072, F.S., relating to grounds for discipline; penalties; and enforcement.
- Section 68:** Amends s. 456.44, F.S., relating to controlled substance prescribing.
- Section 69:** Amends s. 458.3265, F.S., relating to pain-management clinics.
- Section 70:** Amends s. 458.331, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 71:** Amends s. 458.348, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 72:** Amends s. 459.0137, F.S., relating to pain-management clinics.
- Section 73:** Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 74:** Amends s. 459.025, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 75:** Amends s. 464.004, F.S., relating to Board of Nursing; membership; appointment; and terms.
- Section 76:** Amends s. 464.0205, F.S., relating to retired volunteer nurse certificate.
- Section 77:** Amends s. 467.003, F.S., relating to definitions.
- Section 78:** Amends s. 480.0475, F.S., relating to massage establishments and prohibited practices.
- Section 79:** Amends s. 483.041, F.S., relating to definitions.

- Section 80:** Amends s. 483.181, F.S., relating to acceptance, collection, identification, and examination of specimens.
- Section 81:** Amends s. 483.801, F.S., relating to exemptions.
- Section 82:** Amends s. 486.021, F.S., relating to definitions.
- Section 83:** Amends s. 490.012, F.S., relating to violations; penalties; and injunction.
- Section 84:** Amends s. 491.0057, F.S., relating to dual licensure as a marriage and family therapist.
- Section 85:** Amends s. 491.012, F.S., relating to violations; penalty; and injunction.
- Section 86:** Amends s. 493.6108, F.S., relating to investigation of applicants by Department of Agriculture and Consumer Services.
- Section 87:** Amends s. 626.9707, F.S., relating to disability insurance; discrimination on basis of sickle-cell trait prohibited.
- Section 88:** Amends s. 627.357, F.S., relating to medical malpractice self-insurance.
- Section 89:** Amends s. 627.6471, F.S., relating to contracts for reduced rates of payment; limitations; and coinsurance and deductibles.
- Section 90:** Amends s. 627.6472, F.S., relating to exclusive provider organizations.
- Section 91:** Amends s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority; and claims.
- Section 92:** Amends s. 633.412, F.S., relating to firefighters and qualifications for certification.
- Section 93:** Amends s. 641.3923, F.S., relating to discrimination against providers prohibited.
- Section 94:** Amends s. 641.495, F.S., relating to requirements for issuance and maintenance of certificate.
- Section 95:** Amends s. 744.2006, F.S., relating to Office of Public and Professional Guardians; appointment, notification.
- Section 96:** Amends s. 744.331, F.S., relating to procedures to determine incapacity.
- Section 97:** Amends s. 766.102, F.S., relating to medical negligence; standards of recovery; and expert witness.
- Section 98:** Amends s. 766.103, F.S., relating to Florida Medical Consent Law.
- Section 99:** Amends s. 766.1115, F.S., relating to health care providers; creation of agency relationship with governmental contractors.
- Section 100:** Amends s. 766.1116, F.S., relating to health care practitioner; waiver of license renewal fees and continuing education requirements.
- Section 101:** Amends s. 766.118, F.S., relating to determination of noneconomic damages.
- Section 102:** Amends s. 768.135, F.S., relating to volunteer team physicians and immunity.
- Section 103:** Amends s. 782.071, F.S., relating to vehicular homicide.
- Section 104:** Amends s. 794.08, F.S., relating to female genital mutilation.
- Section 105:** Amends s. 893.02, F.S., relating to definitions.
- Section 106:** Amends s. 893.05, F.S., relating to practitioners and persons administering controlled substances in their absence.
- Section 107:** Amends s. 943.13, F.S., relating to officers' minimum qualifications for employment or appointment.
- Section 108:** Amends s. 945.603, F.S., relating to powers and duties of authority.
- Section 109:** Amends s. 948.03, F.S., terms and conditions of probation.
- Section 110:** Amends s. 960.28, F.S., relating to payment for victims' initial forensic physical examinations.
- Section 111:** Amends s. 1002.20, F.S., relating to K-12 student and parent rights.
- Section 112:** Amends s. 1002.42, F.S., relating to private schools.
- Section 113:** Amends s. 1006.062, F.S., relating to administration of medication and provision of medical services by district school board personnel.
- Section 114:** Amends s. 1006.20, F.S., relating to athletics in public K-12 schools.
- Section 115:** Amends s. 1009.65, F.S., relating to Medical Education Reimbursement and Loan Repayment Program.
- Section 116:** Amends s. 1009.66, F.S., relating to Nursing Student Loan Forgiveness Program.
- Section 117:** Amends s. 1009.67, F.S., relating to nursing scholarship program.
- Section 118:** Provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the tax provisions in the bill will have a recurring negative impact on General Revenue of \$29.0 million in FY 2017-18 growing to \$32.7 million in FY 2021-22. The cash impacts on General Revenue begin in FY 2019-20 at \$30.8 million and grow to \$32.7 million in FY 2021-22.

Applicants for registration as an IAPRN will have to pay an initial application fee, and registered IAPRNs will have to pay a biennial renewal fee, to the Department of Health. The total amount the Department of Health will receive from such fees is indeterminate, because the number of APRNs who choose to register as IAPRNs is not predictable.

The bill authorizes DOH to assess a \$150 registration and registration renewal fee for out-of-state telehealth providers. The revenue generated is anticipated to be \$765,000 biennially, assuming that the number of out-of-state registrants will be comparable to the experience of a similar program in Texas. Utilizing the Texas Medical Board experience of a 0.54% licensure rate would generate approximately 5,100 Florida telehealth registrants.¹⁹⁰

2. Expenditures:

The bill requires out-of-state health care professionals to register with DOH prior to providing any health care services through telehealth to individuals located in Florida. The State of Texas offers a comparable telehealth license to physicians and physician's assistants out of state. There are currently 405 active telehealth licensed physicians in the state of Texas and a total 74,098 active licensed physicians licensed. Applying the ratio found in Texas of telehealth physicians compared to the total in-state physicians of 0.54% to the current active in-state physicians in the state of Florida, 56,060, an anticipated 303 physicians will seek telehealth licensure in Florida. Applying the same rate to the 820,248 additional medical professionals identified in the bill, an anticipated 4,743 will register as out-of-state telehealth providers in Florida. The Florida Medical Quality Assurance Division currently employs 570 positions to regulate 886,716 active in-state licenses.

The bill provides an appropriation of \$261,389 recurring and \$15,528 nonrecurring from the Medical Quality Assurance Trust Fund and four full time equivalent positions and \$145,870 in salary rate to utilize the funds generated from the bill's \$150 registration fee to offset the workload increase anticipated from an additional 5,128 licenses.

DOH, the affected regulatory boards within DOH, and the Department of Revenue may incur indeterminate, but nominal costs associated with rulemaking, which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹⁹⁰ Physician Statistics, Physicians In and Out of State Report, Texas Medical Board, September 2016, available at <http://www.tmb.state.tx.us/dl/FA3E654D-B017-F10C-6F44-487DAE447A08> (last viewed February 2, 2017).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health insurers and health maintenance organizations that cover services provided by telehealth may be able to reduce their corporate income tax or insurance premium tax liability by utilizing the tax credit authorized in the bill.

Applicants for registration as an IAPRN will have to pay an application fee and IAPRNs renewing their registration will be subject to renewal fees. The bill authorizes the Board of Nursing to set the application and biennial renewal fees, but they may not exceed \$100 and \$50, respectively.

The bill requires IAPRNs to obtain medical malpractice insurance. The Board may require IAPRNs to have more coverage and therefore a more expensive policy than what is required for APRNs.

APRNs who have paid physicians in order to be supervised under a protocol achieve some cost-savings if they register as an IAPRN and practice without a written protocol.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes Department of Health, or the applicable board, to adopt rules regarding the provision of telehealth services in this state.

The bill authorizes the Department of Revenue and the Office of Insurance Regulation to adopt rules related to the implementation and administration of the telehealth tax credits.

The Board of Nursing and the Department of Health have sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 15, 2017, the Health Quality Subcommittee adopted an amendment that increased the experience requirement for an advanced practice registered nurse (APRN) to practice independently in this state from 2,000 hours of clinical practice while practicing as an APRN to 4,000 hours of clinical practice supervised by an actively licensed supervised physician. The amendment requires an APRN to have completed at least 2,000 clinical practice hours within the 3-year period immediately preceding the submission of the application; if these hours are supervised, they may count toward meeting the requirement of 4,000 hours of supervised clinical practice.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

1 A bill to be entitled
2 An act relating to health care access; creating s.
3 220.197, F.S.; providing a tax credit for eligible
4 taxpayers; authorizing an unused tax credit amount to
5 be carried forward for a certain period of time;
6 authorizing the Department of Revenue to perform
7 audits and investigations under certain circumstances;
8 authorizing the department to pursue recovery of tax
9 credits if the taxpayer received a tax credit for
10 which the taxpayer was not entitled; authorizing the
11 transfer of a tax credit under certain circumstances;
12 authorizing the department and the Office of Insurance
13 Regulation to adopt rules; amending s. 624.509, F.S.;
14 providing that a health insurer or health maintenance
15 organization is allowed a tax credit against a
16 specified tax imposed if it covers services provided
17 by telehealth; authorizing an unused tax credit amount
18 to be carried forward for a certain period of time;
19 authorizing the Department of Revenue to perform
20 audits and investigations under certain circumstances;
21 authorizing the Department of Revenue to pursue
22 recovery of tax credits if the taxpayer received a tax
23 credit for which the taxpayer was not entitled;
24 authorizing the transfer of a tax credit under certain
25 circumstances; authorizing the Department of Revenue

26 and the Office of Insurance Regulation to adopt rules;
 27 providing that an insurer claiming the tax credit is
 28 not required to pay any additional retaliatory tax;
 29 providing definitions; creating s. 456.47, F.S.;

30 providing definitions; establishing certain practice
 31 standards for telehealth providers; providing for the
 32 maintenance and confidentiality of medical records;
 33 providing registration requirements for out-of-state
 34 telehealth providers; requiring the Department of
 35 Health to publish certain information on its website;
 36 authorizing a board or the department if there is no
 37 board to revoke a telehealth provider's registration
 38 under certain circumstances; providing venue;
 39 providing exemptions to the registration requirement;
 40 providing rulemaking authority; providing an
 41 appropriation and authorizing positions; amending s.
 42 464.003, F.S.; revising and providing definitions;
 43 redesignating advanced registered nurse practitioners
 44 as advanced practice registered nurses; providing for
 45 independent advanced practice registered nurses to
 46 practice advanced or specialized nursing and without
 47 the supervision of a physician or protocol; creating a
 48 joint committee to determine the medical acts that may
 49 be performed by independent advanced practice
 50 registered nurses and advanced practice registered

51 nurses; providing for appointment and terms of
 52 committee members; requiring the Board of Nursing to
 53 adopt rules authorizing the performance of certain
 54 acts by an independent advanced practice registered
 55 nurse; amending s. 464.012, F.S.; revising advanced
 56 practice registered nurse certification requirements;
 57 creating s. 464.0125, F.S.; providing for the
 58 registration of an independent advanced practice
 59 registered nurse who meets certain clinical practice
 60 and educational requirements; specifying acts that
 61 independent advanced practice registered nurses are
 62 authorized to perform without physician supervision or
 63 protocol; requiring an independent advanced practice
 64 registered nurse to submit proof of registration to
 65 the department; authorizing the department to include
 66 the proof of registration in the advanced practice
 67 registered nurse's practitioner profile; providing for
 68 biennial renewal of registration, including continuing
 69 education requirements; providing for application and
 70 biennial renewal fees; providing rulemaking authority;
 71 amending s. 464.015, F.S.; providing title protection
 72 for independent advanced practice registered nurses,
 73 advanced practice registered nurses, and certified
 74 nurse practitioners; creating s. 464.0155, F.S.;

75 requiring independent advanced practice registered

76 | nurses to report adverse incidents to the Department
 77 | of Health in a certain manner; providing report
 78 | requirements; defining the term "adverse incident";
 79 | providing for department review of adverse incidents;
 80 | authorizing the department to take disciplinary action
 81 | in cases of adverse incidents; amending s. 464.016,
 82 | F.S.; providing penalties for illegally using certain
 83 | titles; amending s. 464.018, F.S.; adding grounds for
 84 | disciplinary actions against independent advanced
 85 | practice registered nurses; amending s. 39.303, F.S.;
 86 | revising requirements relating to review of certain
 87 | cases of abuse or neglect and standards for face-to-
 88 | face medical evaluations by a child protection team;
 89 | amending s. 39.304, F.S.; authorizing a physician
 90 | assistant and an independent advanced practice
 91 | registered nurse to perform or order an examination
 92 | and diagnose a child without parental consent under
 93 | certain circumstances; amending s. 90.503, F.S.;
 94 | redefining the term "psychotherapist" to include an
 95 | independent advanced practice registered nurse with a
 96 | specified scope of practice; amending s. 112.0455,
 97 | F.S.; authorizing an independent advanced practice
 98 | registered nurse to collect specimens for drug
 99 | testing; amending s. 121.0515, F.S.; designating an
 100 | advanced practice registered nurse as a special risk

101 member under certain conditions; amending ss. 310.071,
 102 310.073, and 310.081, F.S.; authorizing a physician
 103 assistant and an independent advanced practice
 104 registered nurse to administer the physical
 105 examination required for deputy pilot certification
 106 and state pilot licensure; broadening an exception to
 107 the prohibition against the use of controlled
 108 substances by an applicant for a deputy pilot
 109 certificate or a state pilot license to allow the use
 110 of controlled substances prescribed by a physician
 111 assistant, an independent advanced practice registered
 112 nurse, or an advanced practice registered nurse;
 113 requiring a physician assistant or an independent
 114 advanced practice registered nurse performing the
 115 physical examination to know the minimum licensure
 116 standards and certify that such standards are met;
 117 amending s. 320.0848, F.S.; authorizing an independent
 118 advanced practice registered nurse to certify that a
 119 person is disabled; amending s. 381.00315, F.S.;
 120 authorizing the reactivation of an independent
 121 advanced practice registered nurse license in a public
 122 health emergency; amending s. 381.00593, F.S.;
 123 redefining the term "health care practitioner" to
 124 include a physician assistant and an independent
 125 advanced practice registered nurse; amending s.

126 381.026, F.S.; revising the definition of the term
 127 "health care provider" to include a physician
 128 assistant and an independent advanced practice
 129 registered nurse; amending s. 382.008, F.S.;
 130 authorizing a physician assistant, an independent
 131 advanced practice registered nurse, or an advanced
 132 practice registered nurse to file a certificate of
 133 death or fetal death under certain circumstances;
 134 authorizing a certified nurse midwife to provide
 135 certain information to a funeral director within a
 136 specified time period; revising the definition of the
 137 term "primary or attending physician"; amending s.
 138 383.14, F.S.; authorizing the release of certain
 139 newborn tests and screening results to an independent
 140 advanced practice registered nurse; amending ss.
 141 383.141, 627.357, and 766.1115, F.S.; revising the
 142 definition of the term "health care provider" to
 143 include an independent advanced practice registered
 144 nurse; amending s. 384.27, F.S., authorizing an
 145 independent advanced practice registered nurse to
 146 provide expedited partner therapy; amending s.
 147 390.0111, F.S.; including an independent advanced
 148 practice registered nurse in a list of health care
 149 practitioners authorized to review an ultrasound with
 150 a woman prior to an abortion procedure; amending s.

151 390.012, F.S.; including an independent advanced
 152 practice registered nurse in a list of health care
 153 practitioners authorized to provide postoperative
 154 monitoring and required to be available throughout an
 155 abortion procedure, remain at the abortion clinic
 156 until all patients are discharged, and attempt to
 157 assess the patient's recovery within a specified time;
 158 amending s. 394.455, F.S.; revising the definition of
 159 the term "psychiatric nurse" to include an independent
 160 advanced practice registered nurse certified in a
 161 specified specialty; amending s. 394.463, F.S.;
 162 authorizing a physician assistant, an independent
 163 advanced practice registered nurse, or an advanced
 164 practice registered nurse to initiate an involuntary
 165 examination for mental illness under certain
 166 circumstances; providing for examination of a patient
 167 by a physician assistant or psychiatric nurse;
 168 authorizing a psychiatric nurse to approve the release
 169 of a patient under certain conditions; amending s.
 170 395.0191, F.S.; authorizing an independent advanced
 171 practice registered nurse to apply for clinical
 172 privileges; providing an exception to the requirement
 173 for onsite medical direction for certain independent
 174 advanced practice registered nurses; amending s.
 175 395.605, F.S.; including independent advanced practice

176 registered nurses in a list of health care
 177 practitioners who must supervise the care of a patient
 178 or be on duty for a specified duration in an emergency
 179 care setting; amending s. 397.311, F.S.; revising the
 180 definition of the term "qualified professional" to
 181 include an independent advanced practice registered
 182 nurse; conforming terminology; amending s. 397.405,
 183 F.S.; providing that an independent advanced practice
 184 registered nurse's practice may not be limited under
 185 certain circumstances; amending s. 397.501, F.S.;

186 prohibiting the denial of certain services to an
 187 individual who takes medication prescribed by a
 188 physician assistant, an independent advanced practice
 189 registered nurse, or an advanced practice registered
 190 nurse; amending ss. 397.679 and 397.6793, F.S.;

191 revising the list of persons authorized to initiate a
 192 certificate for an emergency admission for a person
 193 who is substance abuse impaired; amending s. 400.021,
 194 F.S.; revising the definition of the term "geriatric
 195 outpatient clinic" to include a site staffed by an
 196 independent advanced practice registered nurse;
 197 amending s. 400.0255, F.S.; including independent
 198 advanced practice registered nurses in a list of
 199 health care practitioners who must sign a notice of
 200 discharge or transfer; amending s. 400.172, F.S.;

201 including independent advanced practice registered
 202 nurses and advanced practice registered nurses in a
 203 list of health care practitioners who may provide a
 204 prospective respite care resident with certain medical
 205 information; amending s. 400.462, F.S.; defining the
 206 term "independent advanced practice registered nurse";
 207 amending s. 400.487, F.S.; including independent
 208 advanced practice registered nurses in a list of
 209 health care practitioners who must establish treatment
 210 orders for certain patients under certain
 211 circumstances; amending s. 400.506, F.S.; applying
 212 medical treatment plan requirements to independent
 213 advanced practice registered nurses; amending s.
 214 400.9905, F.S.; exempting entities where health care
 215 services are provided by independent advanced practice
 216 registered nurses from clinic licensure requirements;
 217 amending s. 400.9973, F.S.; revising the list of
 218 professionals authorized to prescribe admission to a
 219 transitional living facility; amending s. 400.9974,
 220 F.S.; revising the criteria for the comprehensive
 221 treatment plan; amending s. 400.9976, F.S.; revising
 222 the list of professionals authorized to supervise and
 223 record medications to be administered to a client;
 224 amending s. 400.9979, F.S.; revising the list of
 225 professionals that may order physical or chemical

226 restraints for a client; amending s. 401.445, F.S.;
 227 prohibiting recovery of damages in court against an
 228 independent advanced practice registered nurse under
 229 certain circumstances; requiring an independent
 230 advanced practice registered nurse to attempt to
 231 obtain a person's consent prior to providing emergency
 232 services; amending ss. 409.905 and 409.908, F.S.;
 233 requiring the agency to reimburse independent advanced
 234 practice registered nurses for providing certain
 235 mandatory Medicaid services; amending s. 409.9081,
 236 F.S.; requiring copayments under the Medicaid program
 237 to be paid for independent advanced practice
 238 registered nurse services; amending s. 409.973, F.S.;
 239 requiring managed care plans to cover independent
 240 advanced practice registered nurse services; amending
 241 s. 429.26, F.S.; prohibiting independent advanced
 242 practice registered nurses from having a financial
 243 interest in the assisted living facility that employs
 244 them; including independent advanced practice
 245 registered nurses in a list of health care
 246 practitioners from whom an assisted living facility
 247 resident may obtain an examination prior to admission;
 248 amending s. 429.918, F.S.; revising the definition of
 249 the term "ARD participant" to include participants
 250 who have a documented diagnosis of Alzheimer's disease

251 or a dementia-related disorder from an independent
 252 advanced practice registered nurse; including
 253 independent advanced practice registered nurses in a
 254 list of health care practitioners from whom an ADRD
 255 participant may obtain signed medical documentation;
 256 amending s. 440.102, F.S.; authorizing, for the
 257 purpose of drug-free workforce program requirements,
 258 an independent advanced practice registered nurse to
 259 collect a specimen for a drug test; amending s.
 260 456.048, F.S.; requiring independent advanced practice
 261 registered nurses to maintain medical malpractice
 262 insurance or provide proof of financial
 263 responsibility; exempting independent advanced
 264 practice registered nurses from such requirements
 265 under certain circumstances; amending s. 456.053,
 266 F.S.; revising the definition of the term "board" to
 267 include the Board of Nursing; revising the definitions
 268 of the terms "health care provider" and "sole
 269 provider" to include independent advanced practice
 270 registered nurses; authorizing an independent advanced
 271 practice registered nurse to make referrals under
 272 certain circumstances; conforming a reference;
 273 amending s. 456.072, F.S.; requiring the suspension
 274 and fining of an independent advanced practice
 275 registered nurse or an advanced practice registered

276 nurse for prescribing or dispensing a controlled
 277 substance in a certain manner; amending s. 456.44,
 278 F.S.; providing certain requirements for independent
 279 advanced practice registered nurses and advanced
 280 practice registered nurses who prescribe controlled
 281 substances for the treatment of chronic nonmalignant
 282 pain; amending ss. 458.3265 and 459.0137, F.S.;

283 requiring an independent advanced practice registered
 284 nurse to perform a physical examination of a patient
 285 at a pain-management clinic under certain
 286 circumstances; amending ss. 458.348 and 459.025, F.S.;

287 deleting obsolete provisions; conforming provisions;
 288 amending s. 464.0205, F.S.; authorizing an independent
 289 advanced practice registered nurse to directly
 290 supervise a certified retired volunteer nurse;

291 amending s. 480.0475, F.S.; authorizing the operation
 292 of a massage establishment during specified times if a
 293 massage is prescribed by an independent advanced
 294 practice registered nurse; amending s. 483.041, F.S.;

295 revising the definition of the term "licensed
 296 practitioner" to include a physician assistant and an
 297 independent advanced practice registered nurse;

298 amending s. 483.181, F.S.; requiring clinical
 299 laboratories to accept a human specimen submitted by
 300 an independent advanced practice registered nurse;

301 amending s. 486.021, F.S.; authorizing a physical
 302 therapist to implement a plan of treatment provided by
 303 an independent advanced practice registered nurse;
 304 amending s. 490.012, F.S.; allowing certain qualified
 305 independent advanced practice registered nurses to use
 306 the word, or a form of the word, "psychotherapy";
 307 amending s. 491.0057, F.S.; authorizing certain
 308 qualified independent advanced practice registered
 309 nurses to be licensed as marriage and family
 310 therapists; amending s. 491.012, F.S.; authorizing
 311 certain qualified independent advanced practice
 312 registered nurses to use specified terms; amending s.
 313 493.6108, F.S.; authorizing an independent advanced
 314 practice registered nurse to certify the physical
 315 fitness of a certain class of applicants to bear a
 316 weapon or firearm; amending s. 626.9707, F.S.;
 317 including independent advanced practice registered
 318 nurses in a list of entities and individuals that are
 319 protected from insurer discrimination when providing
 320 services to a person with the sickle-cell trait;
 321 amending s. 627.6471, F.S.; requiring insurers to
 322 provide eligibility criteria for certain qualified
 323 independent advanced practice registered nurses under
 324 certain circumstances; amending s. 627.6472, F.S.;
 325 requiring insurers to provide eligibility criteria for

326 certain qualified independent advanced practice
 327 registered nurses under certain circumstances;
 328 prohibiting an exclusive provider organization from
 329 discriminating against participation by an independent
 330 advanced practice registered nurse; amending s.
 331 627.736, F.S.; requiring personal injury protection
 332 insurance to cover a certain percentage of medical
 333 services and care provided by an independent advanced
 334 practice registered nurse, a practitioner supervised
 335 by an independent advanced practice registered nurse,
 336 or an entity wholly owned by one or more independent
 337 advanced practice registered nurses; providing for
 338 reimbursement of independent advanced practice
 339 registered nurses up to a specified amount for
 340 providing medical services and care; amending s.
 341 633.412, F.S.; authorizing an independent advanced
 342 practice registered nurse to medically examine an
 343 applicant for firefighter certification; amending s.
 344 641.3923, F.S.; prohibiting a health maintenance
 345 organization from discriminating against the
 346 participation of a physician assistant or an
 347 independent advanced practice registered nurse;
 348 amending s. 641.495, F.S.; requiring a health
 349 maintenance organization to disclose in certain
 350 documents that certain services may be provided by

351 independent advanced practice registered nurses;
 352 amending s. 744.2006, F.S.; adding independent
 353 advanced practice registered nurses to a list of
 354 authorized professionals with whom a public guardian
 355 may contract to carry out guardianship functions;
 356 amending s. 744.331, F.S.; including a physician
 357 assistant as an eligible member of an examining
 358 committee; conforming terminology; amending s.
 359 766.102, F.S.; providing requirements for
 360 qualification as an expert witness in a medical
 361 negligence case concerning the standard of care for an
 362 independent advanced practice registered nurse and an
 363 advanced practice registered nurse; amending s.
 364 766.103, F.S.; prohibiting recovery of damages against
 365 an independent advanced practice registered nurse
 366 under certain conditions; amending s. 766.1116, F.S.;
 367 revising the definition of the term "health care
 368 practitioner" to include an independent advanced
 369 practice registered nurse; amending s. 766.118, F.S.;
 370 revising the definition of the term "practitioner" to
 371 include an independent advanced practice registered
 372 nurse; amending s. 768.135, F.S.; providing immunity
 373 from liability for an independent advanced practice
 374 registered nurse who provides volunteer services under
 375 certain circumstances; amending s. 782.071, F.S.;

376 allowing an independent advanced practice registered
 377 nurse or an advanced practice registered nurse to
 378 supervise a person who is completing community service
 379 hours in a trauma center or hospital; amending s.
 380 794.08, F.S.; providing that the section does not
 381 apply to medical procedures conducted by an
 382 independent advanced practice registered nurse under
 383 certain circumstances; amending s. 893.02, F.S.;

384 revising the definition of the term "practitioner" to
 385 include an independent advanced practice registered
 386 nurse and an advanced practice registered nurse;
 387 amending s. 943.13, F.S.; authorizing a law
 388 enforcement officer or correctional officer to satisfy
 389 qualifications for employment or appointment by
 390 passing a physical examination conducted by an
 391 independent advanced practice registered nurse;
 392 amending s. 945.603, F.S.; authorizing the
 393 Correctional Medical Authority to review and make
 394 recommendations relating to the use of advanced
 395 practice registered nurses as physician extenders;
 396 amending s. 948.03, F.S.; revising the list of persons
 397 who may prescribe drugs or narcotics to a probationer
 398 to include an independent advanced practice registered
 399 nurse; amending ss. 1002.20 and 1002.42, F.S.;

400 including independent advanced practice registered

401 nurses in a list of individuals who have immunity
 402 relating to the use of epinephrine auto-injectors in
 403 public and private schools; amending s. 1006.062,
 404 F.S.; authorizing nonmedical assistive personnel to
 405 perform health services if trained by an independent
 406 advanced practice registered nurse; requiring the
 407 monitoring of such personnel by an independent
 408 advanced practice registered nurse; including
 409 independent advanced practice registered nurses in a
 410 list of practitioners who must determine whether such
 411 personnel may perform certain invasive medical
 412 services; amending s. 1006.20, F.S.; authorizing an
 413 independent advanced practice registered nurse to
 414 medically evaluate a student athlete; amending ss.
 415 110.12315, 252.515, 395.602, 397.427, 456.0391,
 416 456.0392, 456.041, 458.331, 459.015, 464.004,
 417 464.0205, 467.003, 483.801, 893.05, 960.28, 1009.65,
 418 1009.66, and 1009.67, F.S.; conforming terminology and
 419 cross-references; providing effective dates.

420

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

422

423 Section 1. Effective upon this act becoming a law, section
 424 220.197, Florida Statutes, is created to read:

425 220.197 Telehealth tax credit.-

426 (1) For tax years beginning on or after January 1, 2018,
 427 for taxpayers eligible to receive the tax credit provided in s.
 428 624.509(9)(a), but with insufficient tax liability under s.
 429 624.509 to use such tax credit, a credit against the tax imposed
 430 by this chapter equal to the credit amount provided in s.
 431 624.509(9)(a) is allowed.

432 (2) If the credit allowed pursuant to this section is not
 433 fully used in any single year because of insufficient tax
 434 liability on the part of the taxpayer, the unused amount may be
 435 carried forward for a period not to exceed 5 years.

436 (3)(a) In addition to its existing audit and investigation
 437 authority, the department may perform any additional financial
 438 and technical audits and investigations, including examining the
 439 accounts, books, and records of the taxpayer, which are
 440 necessary to verify eligibility for the credit authorized by
 441 this section and to ensure compliance with this section. The
 442 Office of Insurance Regulation shall provide technical
 443 assistance when requested by the department on any audits or
 444 examinations performed pursuant to this paragraph.

445 (b) If the department determines, as a result of an audit
 446 or examination or from information received from the Office of
 447 Insurance Regulation, that a taxpayer received a tax credit
 448 pursuant to this subsection to which it was not entitled, the
 449 department shall pursue recovery of such funds pursuant to the
 450 laws and rules governing the assessment of taxes.

451 (4) A taxpayer may transfer a credit for which it
 452 qualifies under subsection (1), in whole or in part, to any
 453 taxpayer by written agreement. In order to perfect the transfer,
 454 the transferor shall provide the department with a written
 455 transfer statement stating the transferor's intent to transfer
 456 the tax credit to the transferee; the date that the transfer is
 457 effective; the transferee's name, address, and federal taxpayer
 458 identification number; the tax period; and the amount of tax
 459 credit to be transferred. Upon receipt of the transfer
 460 statement, the department shall provide the transferee and the
 461 office with a certificate reflecting the transferred tax credit
 462 amount. A copy of the certificate must be attached to each tax
 463 return for which the transferee seeks to apply the credit.

464 (5) The department and the Office of Insurance Regulation
 465 may adopt rules to administer this section, including rules
 466 relating to:

467 (a) The forms, if any, necessary to claim a tax credit
 468 under this section, the requirements and basis for establishing
 469 an entitlement to a credit, and the examination and audit
 470 procedures required to administer this section.

471 (b) The implementation and administration of the
 472 provisions allowing a transfer of a tax credit, including rules
 473 prescribing forms, reporting requirements, and specific
 474 procedures, guidelines, and requirements necessary to transfer a
 475 tax credit.

476 Section 2. Effective upon this act becoming a law,
 477 subsection (9) of section 624.509, Florida Statutes, is
 478 renumbered as subsection (10) and amended, and a new subsection
 479 (9) is added to that section, to read:

480 624.509 Premium tax; rate and computation.—

481 (9) (a) For tax years beginning on or after January 1,
 482 2018, any health insurer or health maintenance organization that
 483 covers services provided by telehealth shall be allowed a credit
 484 against the tax imposed by this section equal to 0.001 percent
 485 of total insurance premiums received on accident and health
 486 insurance policies or plans delivered or issued in this state in
 487 the previous calendar year that provide medical, major medical,
 488 or similar comprehensive coverage. The office shall confirm such
 489 coverage to the Department of Revenue following its annual rate
 490 and form review for each health insurance policy or plan.

491 (b) If the credit allowed pursuant to this subsection is
 492 not fully used in any single year because of insufficient tax
 493 liability on the part of a health insurer or health maintenance
 494 organization and the same health insurer or health maintenance
 495 organization does not use the credit available pursuant to s.
 496 220.197, the unused amount may be carried forward for a period
 497 not to exceed 5 years.

498 (c)1. In addition to its existing audit and investigation
 499 authority, the Department of Revenue may perform any additional
 500 financial and technical audits and investigations, including

501 examining the accounts, books, and records of the health insurer
 502 or health maintenance organization, which are necessary to
 503 verify eligibility for the credit authorized by this subsection
 504 and to ensure compliance with this subsection. The office shall
 505 provide technical assistance when requested by the Department of
 506 Revenue on any audits or examinations performed pursuant to this
 507 subparagraph.

508 2. If the Department of Revenue determines, as a result of
 509 an audit or examination or from information received from the
 510 office, that a taxpayer received a tax credit pursuant to this
 511 subsection to which it was not entitled, the Department of
 512 Revenue shall pursue recovery of such funds pursuant to the laws
 513 and rules governing the assessment of taxes.

514 (d) A health insurer or health maintenance organization
 515 may transfer a credit for which it qualifies under paragraph
 516 (a), in whole or in part, to any insurer by written agreement.
 517 In order to perfect the transfer, the transferor shall provide
 518 the Department of Revenue with a written transfer statement
 519 stating the transferor's intent to transfer the tax credit to
 520 the transferee; the date that the transfer is effective; the
 521 transferee's name, address, and federal taxpayer identification
 522 number; the tax period; and the amount of tax credit to be
 523 transferred. Upon receipt of the transfer statement, the
 524 Department of Revenue shall provide the transferee and the
 525 office with a certificate reflecting the transferred tax credit

526 amount. A copy of the certificate must be attached to each tax
 527 return for which the transferee seeks to apply the credit.

528 (e) The Department of Revenue and the office may adopt
 529 rules to administer this section, including rules relating to:

530 1. The forms, if any, necessary to claim a tax credit
 531 under this section, the requirements and basis for establishing
 532 an entitlement to a credit, and the examination and audit
 533 procedures required to administer this section.

534 2. The implementation and administration of the provisions
 535 allowing a transfer of a tax credit, including rules prescribing
 536 forms, reporting requirements, and specific procedures,
 537 guidelines, and requirements necessary to transfer a tax credit.

538 (f) An insurer that claims a credit against tax liability
 539 under this subsection is not required to pay any additional
 540 retaliatory tax levied under s. 624.5091 as a result of claiming
 541 such a credit. Section 624.5091 does not limit such a credit in
 542 any manner.

543 (10)+9) As used in this section, the term:

544 (a) "Health insurer" means an authorized insurer offering
 545 health insurance as defined in s. 624.603.

546 (b) "Health maintenance organization" has the same meaning
 547 as provided in s. 641.19.

548 (c) "Insurer" includes any entity subject to the tax
 549 imposed by this section.

550 (d) "Telehealth" means the use of synchronous or

551 asynchronous telecommunications technology by a health care
 552 provider to provide health care services, including, but not
 553 limited to, patient assessment, diagnosis, consultation,
 554 treatment, and monitoring; transfer of medical data; patient and
 555 professional health-related education; public health services;
 556 and health administration. The term does not include audio-only
 557 telephone calls, e-mail messages, or facsimile transmissions.

558 Section 3. Section 456.47, Florida Statutes, is created to
 559 read:

560 456.47 Use of telehealth to provide services.-

561 (1) DEFINITIONS.-As used in this section, the term:

562 (a) "Telehealth" means the use of synchronous or
 563 asynchronous telecommunications technology by a telehealth
 564 provider to provide health care services, including, but not
 565 limited to, patient assessment, diagnosis, consultation,
 566 treatment, and monitoring; transfer of medical data; patient and
 567 professional health-related education; public health services;
 568 and health administration. The term does not include audio-only
 569 telephone calls, e-mail messages, or facsimile transmissions.

570 (b) "Telehealth provider" means any individual who
 571 provides health care and related services using telehealth and
 572 who is licensed or certified under s. 393.17; part III of
 573 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
 574 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;
 575 chapter 467; part I, part III, part IV, part V, part X, part

576 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part
 577 III of chapter 483; chapter 484; chapter 486; chapter 490; or
 578 chapter 491; or who is registered under and complies with
 579 subsection (4).

580 (2) PRACTICE STANDARD.—

581 (a) The standard of care for telehealth providers who
 582 provide health care services is the same as the standard of care
 583 for health care professionals who provide in-person health care
 584 services to patients in this state. If the telehealth provider
 585 conducts a patient evaluation sufficient to diagnose and treat
 586 the patient, the telehealth provider is not required to research
 587 a patient's medical history or conduct a physical examination of
 588 the patient before using telehealth to provide services to the
 589 patient. The evaluation may be performed using telehealth.

590 (b) A telehealth provider may not use telehealth to
 591 prescribe a controlled substance to treat chronic nonmalignant
 592 pain, as defined under s. 456.44, unless the controlled
 593 substance is ordered for inpatient treatment at a hospital
 594 licensed under chapter 395, is prescribed for a patient
 595 receiving hospice services, as defined under s. 400.601, or is
 596 prescribed for a resident of a nursing home facility as defined
 597 under s. 400.021(12).

598 (c) A telehealth provider and a patient may be in separate
 599 locations when telehealth is used to provide health care
 600 services to a patient.

601 (d) A nonphysician telehealth provider using telehealth
 602 and acting within the relevant scope of practice, as established
 603 by Florida law and rule, is not a violation of s. 458.327(1)(a)
 604 or s. 459.013(1)(a).

605 (3) RECORDS.—A telehealth provider shall document in the
 606 patient's medical record the health care services rendered using
 607 telehealth according to the same standard as used for in-person
 608 services. Medical records, including video, audio, electronic,
 609 or other records generated as a result of providing such
 610 services, are confidential pursuant to ss. 395.3025(4) and
 611 456.057.

612 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

613 (a) A health care professional not licensed in this state
 614 may provide health care services to a patient located in this
 615 state using telehealth if the telehealth provider registers with
 616 the applicable board, or the department if there is no board,
 617 and provides health care services within the relevant scope of
 618 practice established by Florida law or rule.

619 (b) The board, or the department if there is no board,
 620 shall register a health care professional not licensed in this
 621 state as a telehealth provider if the health care professional:

- 622 1. Completes an application in the format prescribed by
- 623 the department;
- 624 2. Pays a \$150 registration fee; and
- 625 3. Holds an active, unencumbered license for a profession

626 listed in paragraph (1)(b) which is issued by another state, the
 627 District of Columbia, or a possession or territory of the United
 628 States and against whom no disciplinary action has been taken
 629 during the 5 years before submission of the application. The
 630 department shall use the National Practitioner Data Bank to
 631 verify information submitted by an applicant.

632 (c) A telehealth provider registered pursuant to paragraph
 633 (b) must, as a condition of biennial registration renewal,
 634 complete a renewal application and pay a renewal registration
 635 fee of \$150.

636 (d) A health care professional may not register under this
 637 subsection if his or her license to provide health care services
 638 is subject to a pending disciplinary investigation or action, or
 639 has been revoked in any state or jurisdiction. A health care
 640 professional registered under this section must notify the
 641 appropriate board, or the department if there is no board, of
 642 restrictions placed on the health care professional's license to
 643 practice, or disciplinary action taken or pending against the
 644 health care professional, in any state or jurisdiction. The
 645 notification must be provided within 5 business days after the
 646 restriction is placed or disciplinary action is initiated or
 647 taken.

648 (e) A health care professional registered under this
 649 subsection may not open an office in this state and may not
 650 provide in-person health care services to patients located in

651 this state.

652 (f) A pharmacist registered under this subsection may only
 653 use a pharmacy permitted under chapter 465, a nonresident
 654 pharmacy registered under s. 465.0156, or a nonresident pharmacy
 655 or outsourcing facility holding an active permit pursuant to s.
 656 465.0158, to dispense medicinal drugs to patients located in
 657 this state.

658 (g) The department shall publish on its website a list of
 659 all registrants and include, to the extent applicable, each
 660 registrant's:

- 661 1. Name.
- 662 2. Health care occupation.
- 663 3. Completed health care training and education, including
 664 completion dates and any certificates or degrees obtained.
- 665 4. Out-of-state health care license with the license
 666 number.
- 667 5. Florida telehealth provider registration number.
- 668 6. Specialty.
- 669 7. Board certification.
- 670 8. Five-year disciplinary history, including sanctions and
 671 board actions.
- 672 9. Medical malpractice insurance provider and policy
 673 limits, including whether the policy covers claims which arise
 674 in this state.

675 (h) The board, or the department if there is no board, may

676 revoke an out-of-state telehealth provider's registration if the
 677 registrant:

678 1. Fails to notify the applicable board, or the
 679 department, of any adverse actions taken against his or her
 680 license as required under paragraph (d).

681 2. Has restrictions placed on or disciplinary action taken
 682 against his or her license in any state or jurisdiction.

683 3. Violates any of the requirements of this section.

684 (5) VENUE.—For the purposes of this section, any act that
 685 constitutes the delivery of health care services is deemed to
 686 occur at the place where the patient is located at the time the
 687 act is performed.

688 (6) EXEMPTIONS.—A health care professional who is not
 689 licensed to provide health care services in this state but who
 690 holds an active license to provide health care services in
 691 another state or jurisdiction, and who provides health care
 692 services using telehealth to a patient located in this state, is
 693 not subject to the registration requirement under this section
 694 if the services are provided:

695 (a) In response to an emergency medical condition as
 696 defined in s. 395.002; or

697 (b) In consultation with a health care professional
 698 licensed in this state and that health care professional retains
 699 ultimate authority over the diagnosis and care of the patient.

700 (7) RULEMAKING.—The applicable board, or the department if

701 there is no board, may adopt rules to administer this section.

702 Section 4. For the 2017-2018 fiscal year, the sums of
 703 \$261,389 in recurring funds and \$15,528 in nonrecurring funds
 704 from the Medical Quality Assurance Trust Fund are appropriated
 705 to the Department of Health, and four full-time equivalent
 706 positions with associated salary rate of 145,870 are authorized,
 707 for the purpose of implementing s. 456.47, Florida Statutes, as
 708 created by this act.

709 Section 5. Subsections (2) and (3) of section 464.003,
 710 Florida Statutes, are amended, subsections (16) through (23) are
 711 renumbered as subsections (17) through (24), respectively,
 712 present subsections (20) and (22) are amended, and a new
 713 subsection (16) is added to that section, to read:

714 464.003 Definitions.—As used in this part, the term:
 715 (2) "Advanced or specialized nursing practice" or "to
 716 practice advanced or specialized nursing" means, in addition to
 717 the practice of professional nursing, the performance of
 718 advanced-level nursing acts approved by the board which, by
 719 virtue of postbasic specialized education, training, and
 720 experience, are appropriately performed by an independent
 721 advanced practice registered nurse or an advanced practice
 722 registered nurse practitioner. Within the context of advanced or
 723 specialized nursing practice, the independent advanced practice
 724 registered nurse and the advanced practice registered nurse
 725 ~~practitioner~~ may perform acts of nursing diagnosis and nursing

726 treatment of alterations of the health status. The independent
 727 advanced practice registered nurse and the advanced practice
 728 registered nurse practitioner may also perform acts of medical
 729 diagnosis, and treatment, prescription, and operation which are
 730 identified and approved by a joint committee composed of three
 731 members appointed by the Board of Nursing, one of whom must be
 732 an independent advanced practice registered nurse and one of
 733 whom must be an advanced practice registered nurse; three
 734 members appointed by the Board of Medicine, two of whom must
 735 have had work experience with advanced practice registered
 736 nurses; and the State Surgeon General or the State Surgeon
 737 General's designee. Each committee member appointed by a board
 738 shall be appointed to a term of 4 years unless a shorter term is
 739 required to establish or maintain staggered terms. The Board of
 740 Nursing shall adopt rules authorizing the performance of any
 741 such acts approved by the joint committee. Unless otherwise
 742 specified by the joint committee and unless such acts are
 743 performed by an independent advanced practice nurse, such
 744 medical acts must be performed as authorized within the
 745 framework of an established supervisory protocol. The department
 746 may, by rule, require that a copy of the protocol be filed with
 747 the department along with the notice required by s. 458.348 or
 748 s. 459.025.

749 (3) "Advanced practice registered nurse ~~practitioner~~"
 750 means any person licensed in this state to practice professional

751 nursing and certified in advanced or specialized nursing
 752 practice, including certified registered nurse anesthetists,
 753 certified nurse midwives, and certified nurse practitioners.

754 (16) "Independent advanced practice registered nurse"
 755 means an advanced practice registered nurse who maintains an
 756 active and unencumbered certification under s. 464.012(2) and
 757 registration under s. 464.0125 to practice advanced or
 758 specialized nursing independently and without the supervision of
 759 a physician or a protocol.

760 (21)~~(20)~~ "Practice of professional nursing" means the
 761 performance of those acts requiring substantial specialized
 762 knowledge, judgment, and nursing skill based upon applied
 763 principles of psychological, biological, physical, and social
 764 sciences which shall include, but not be limited to:

765 (a) The observation, assessment, nursing diagnosis,
 766 planning, intervention, and evaluation of care; health teaching
 767 and counseling of the ill, injured, or infirm; and the promotion
 768 of wellness, maintenance of health, and prevention of illness of
 769 others.

770 (b) The prescribing and administration of medications and
 771 treatments as ~~prescribed or~~ authorized by a ~~duly licensed~~
 772 ~~practitioner authorized by~~ the laws of this state ~~to prescribe~~
 773 ~~such medications and treatments.~~

774 (c) The supervision and teaching of other personnel in the
 775 theory and performance of any of the acts described in this

776 subsection.

777

778 A professional nurse is responsible and accountable for making
779 decisions that are based upon the individual's educational
780 preparation and experience in nursing.

781 ~~(23)~~~~(22)~~ "Registered nurse" means any person licensed in
782 this state to practice professional nursing, except such
783 licensed person may only administer medications and treatments
784 authorized by a duly licensed practitioner authorized by the
785 laws of this state to prescribe such medications and treatments.

786 Section 6. Section 464.012, Florida Statutes, is amended
787 to read:

788 464.012 Certification of advanced practice registered
789 nurses ~~nurse practitioners~~; fees; controlled substance
790 prescribing.-

791 (1) Any nurse desiring to be certified as an advanced
792 practice registered nurse ~~practitioner~~ shall apply to the board
793 ~~department~~ and submit proof that the nurse ~~he or she~~ holds a
794 current license to practice professional nursing and that the
795 nurse ~~he or she~~ meets ~~one or more of~~ the following requirements
796 ~~as determined by the board~~:

797 ~~(a) Satisfactory completion of a formal postbasic~~
798 ~~educational program of at least one academic year, the primary~~
799 ~~purpose of which is to prepare nurses for advanced or~~
800 ~~specialized practice.~~

801 (a) ~~(b)~~ Certification by an appropriate specialty board.
 802 Such certification shall be required for initial state
 803 certification and any recertification as a registered nurse
 804 anesthetist, psychiatric nurse, or nurse midwife. The board may
 805 by rule provide for provisional state certification of graduate
 806 nurse practitioners, nurse anesthetists, psychiatric nurses, and
 807 nurse midwives for a period of time determined to be appropriate
 808 for preparing for and passing the national certification
 809 examination.

810 (b) ~~(c)~~ Graduation from a ~~program leading to a~~ master's
 811 degree program in a nursing clinical specialty area with
 812 preparation in specialized practitioner skills. ~~For applicants~~
 813 ~~graduating on or after October 1, 1998, graduation from a~~
 814 ~~master's degree program shall be required for initial~~
 815 ~~certification as a nurse practitioner under paragraph (4) (c).~~
 816 ~~For applicants graduating on or after October 1, 2001,~~
 817 ~~graduation from a master's degree program shall be required for~~
 818 ~~initial certification as a registered nurse anesthetist under~~
 819 ~~paragraph (4) (a).~~

820 (2) The board shall provide by rule the appropriate
 821 requirements for advanced practice registered nurses ~~nurse~~
 822 ~~practitioners~~ in the categories of certified registered nurse
 823 anesthetist, certified nurse midwife, and certified nurse
 824 practitioner.

825 (3) An advanced practice registered nurse ~~practitioner~~

826 shall perform those functions authorized in this section within
 827 the framework of an established protocol that is filed with the
 828 board upon biennial license renewal and within 30 days after
 829 entering into a supervisory relationship with a physician or
 830 changes to the protocol. The board shall review the protocol to
 831 ensure compliance with applicable regulatory standards for
 832 protocols. The board shall refer to the department licensees
 833 submitting protocols that are not compliant with the regulatory
 834 standards for protocols. A practitioner currently licensed under
 835 chapter 458, chapter 459, or chapter 466 shall maintain
 836 supervision for directing the specific course of medical
 837 treatment. Within the established framework, an advanced
 838 practice registered nurse ~~practitioner~~ may:

- 839 (a) Prescribe, dispense, administer, or order any drug;
 840 however, an advanced practice registered nurse ~~practitioner~~ may
 841 prescribe or dispense a controlled substance as defined in s.
 842 893.03 only if the advanced practice registered nurse
 843 ~~practitioner~~ has graduated from a program leading to a master's
 844 or doctoral degree in a clinical nursing specialty area with
 845 training in specialized practitioner skills.
- 846 (b) Initiate appropriate therapies for certain conditions.
- 847 (c) Perform additional functions as may be determined by
 848 rule in accordance with s. 464.003(2).
- 849 (d) Order diagnostic tests and physical and occupational
 850 therapy.

851 (e) Order any medication for administration to a patient
 852 in a facility licensed under chapter 395 or part II of chapter
 853 400, notwithstanding any provisions in chapter 465 or chapter
 854 893.

855 (4) In addition to the general functions specified in
 856 subsection (3), an advanced practice registered nurse
 857 ~~practitioner~~ may perform the following acts within his or her
 858 specialty:

859 (a) The certified registered nurse anesthetist may, to the
 860 extent authorized by established protocol approved by the
 861 medical staff of the facility in which the anesthetic service is
 862 performed, perform any or all of the following:

863 1. Determine the health status of the patient as it
 864 relates to the risk factors and to the anesthetic management of
 865 the patient through the performance of the general functions.

866 2. Based on history, physical assessment, and supplemental
 867 laboratory results, determine, with the consent of the
 868 responsible physician, the appropriate type of anesthesia within
 869 the framework of the protocol.

870 3. Order under the protocol preanesthetic medication.

871 4. Perform under the protocol procedures commonly used to
 872 render the patient insensible to pain during the performance of
 873 surgical, obstetrical, therapeutic, or diagnostic clinical
 874 procedures. These procedures include ordering and administering
 875 regional, spinal, and general anesthesia; inhalation agents and

876 techniques; intravenous agents and techniques; and techniques of
 877 hypnosis.

878 5. Order or perform monitoring procedures indicated as
 879 pertinent to the anesthetic health care management of the
 880 patient.

881 6. Support life functions during anesthesia health care,
 882 including induction and intubation procedures, the use of
 883 appropriate mechanical supportive devices, and the management of
 884 fluid, electrolyte, and blood component balances.

885 7. Recognize and take appropriate corrective action for
 886 abnormal patient responses to anesthesia, adjunctive medication,
 887 or other forms of therapy.

888 8. Recognize and treat a cardiac arrhythmia while the
 889 patient is under anesthetic care.

890 9. Participate in management of the patient while in the
 891 postanesthesia recovery area, including ordering the
 892 administration of fluids and drugs.

893 10. Place special peripheral and central venous and
 894 arterial lines for blood sampling and monitoring as appropriate.

895 (b) The certified nurse midwife may, to the extent
 896 authorized by an established protocol which has been approved by
 897 the medical staff of the health care facility in which the
 898 midwifery services are performed, or approved by the nurse
 899 midwife's physician backup when the delivery is performed in a
 900 patient's home, perform any or all of the following:

- 901 1. Perform superficial minor surgical procedures.
- 902 2. Manage the patient during labor and delivery to include
- 903 amniotomy, episiotomy, and repair.
- 904 3. Order, initiate, and perform appropriate anesthetic
- 905 procedures.
- 906 4. Perform postpartum examination.
- 907 5. Order appropriate medications.
- 908 6. Provide family-planning services and well-woman care.
- 909 7. Manage the medical care of the normal obstetrical
- 910 patient and the initial care of a newborn patient.
- 911 (c) The certified nurse practitioner may perform any or
- 912 all of the following acts within the framework of established
- 913 protocol:
- 914 1. Manage selected medical problems.
- 915 2. Order physical and occupational therapy.
- 916 3. Initiate, monitor, or alter therapies for certain
- 917 uncomplicated acute illnesses.
- 918 4. Monitor and manage patients with stable chronic
- 919 diseases.
- 920 5. Establish behavioral problems and diagnosis and make
- 921 treatment recommendations.
- 922 (5) A psychiatric nurse, as defined in s. 394.455, within
- 923 the framework of an established protocol with a psychiatrist,
- 924 may prescribe psychotropic controlled substances for the
- 925 treatment of mental disorders.

926 (6) The board shall certify, and the department shall
 927 issue a certificate to, any nurse meeting the qualifications in
 928 this section. The board shall establish an application fee not
 929 to exceed \$100 and a biennial renewal fee not to exceed \$50. The
 930 board is authorized to adopt such other rules as are necessary
 931 to implement the provisions of this section.

932 (7) (a) The board shall establish a committee to recommend
 933 a formulary of controlled substances that an advanced practice
 934 registered nurse ~~practitioner~~ may not prescribe or may prescribe
 935 only for specific uses or in limited quantities. The committee
 936 must consist of three advanced practice registered nurses ~~nurse~~
 937 ~~practitioners~~ licensed under this section, recommended by the
 938 board; three physicians licensed under chapter 458 or chapter
 939 459 who have work experience with advanced practice registered
 940 nurses ~~nurse-practitioners~~, recommended by the Board of
 941 Medicine; and a pharmacist licensed under chapter 465 who is a
 942 doctor of pharmacy, recommended by the Board of Pharmacy. The
 943 committee may recommend an evidence-based formulary applicable
 944 to all advanced practice registered nurses ~~nurse-practitioners~~
 945 which is limited by specialty certification, is limited to
 946 approved uses of controlled substances, or is subject to other
 947 similar restrictions the committee finds are necessary to
 948 protect the health, safety, and welfare of the public. The
 949 formulary must restrict the prescribing of psychiatric mental
 950 health controlled substances for children younger than 18 years

951 of age to advanced practice registered nurses ~~nurse~~
 952 ~~practitioners~~ who also are psychiatric nurses as defined in s.
 953 394.455. The formulary must also limit the prescribing of
 954 Schedule II controlled substances as listed in s. 893.03 to a 7-
 955 day supply, except that such restriction does not apply to
 956 controlled substances that are psychiatric medications
 957 prescribed by psychiatric nurses as defined in s. 394.455.

958 (b) The board shall adopt by rule the recommended
 959 formulary and any revision to the formulary which it finds is
 960 supported by evidence-based clinical findings presented by the
 961 Board of Medicine, the Board of Osteopathic Medicine, or the
 962 Board of Dentistry.

963 (c) The formulary required under this subsection does not
 964 apply to a controlled substance that is dispensed for
 965 administration pursuant to an order, including an order for
 966 medication authorized by subparagraph (4)(a)3., subparagraph
 967 (4)(a)4., or subparagraph (4)(a)9.

968 (d) The board shall adopt the committee's initial
 969 recommendation no later than October 31, 2017 ~~2016~~.

970 (8) This section shall be known as "The Barbara Lumpkin
 971 Prescribing Act."

972 Section 7. Section 464.0125, Florida Statutes, is created
 973 to read:

974 464.0125 Registration of independent advanced practice
 975 registered nurses; fees.-

976 (1) To be registered as an independent advanced practice
 977 registered nurse, an applicant must hold an active and
 978 unencumbered certificate under s. 464.012, and must have:

979 (a) Completed, in any jurisdiction of the United States,
 980 at least 4,000 clinical practice hours while practicing as an
 981 advanced practice registered nurse under the supervision of an
 982 allopathic or osteopathic physician holding an active,
 983 unencumbered license issued by any state, the District of
 984 Columbia, or a possession or territory of the United States
 985 during the period of supervision.

986 (b) Completed at least 2,000 clinical practice hours
 987 within a 3-year period immediately preceding the submission of
 988 the application, which shall, if supervised pursuant to
 989 paragraph (a), be counted as part of the requirement of that
 990 paragraph.

991 (c) Not been subject to any disciplinary action under s.
 992 464.018 or s. 456.072, or any similar disciplinary action in any
 993 other jurisdiction, during the 5 years immediately preceding the
 994 submission of the application.

995 (d) Completed a graduate-level course in pharmacology.

996 (2) The board may provide by rule additional requirements
 997 appropriate for each applicant practicing in a specialty under
 998 s. 464.012(4).

999 (3) An independent advanced practice registered nurse may
 1000 perform, without physician supervision or a protocol, the

1001 functions authorized in s. 464.012(3), the acts within his or
 1002 her specialty as described in s. 464.012(4), and any of the
 1003 following:

1004 (a) For a patient who requires the services of a health
 1005 care facility, as defined in s. 408.032(8):

1006 1. Admit the patient to the facility.

1007 2. Manage the care that the patient receives in the
 1008 facility.

1009 3. Discharge the patient from the facility.

1010 (b) Provide a signature, certification, stamp,
 1011 verification, affidavit, or other endorsement that is otherwise
 1012 required by law to be provided by a physician.

1013 (4) An independent advanced practice registered nurse
 1014 registered under this section must submit to the department
 1015 proof of registration along with the information required under
 1016 s. 456.0391, and the department shall include the registration
 1017 in the independent advanced practice registered nurse's
 1018 practitioner profile created pursuant to s. 456.041.

1019 (5) To be eligible for biennial renewal of registration,
 1020 an independent advanced practice registered nurse must complete
 1021 at least 10 hours of continuing education approved by the board
 1022 in pharmacology in addition to completing the continuing
 1023 education requirements established by board rule pursuant to s.
 1024 464.013. The biennial renewal for registration shall coincide
 1025 with the independent advanced practice registered nurse's

1026 biennial renewal period for advanced practice registered nurse
 1027 certification. If the initial renewal period occurs before
 1028 January 1, 2018, an independent advanced practice registered
 1029 nurse is not required to complete the continuing education
 1030 requirement under this subsection until the following biennial
 1031 renewal period.

1032 (6) The board shall register any nurse meeting the
 1033 qualifications in this section. The board shall establish an
 1034 application fee not to exceed \$100 and a biennial renewal fee
 1035 not to exceed \$50. The board is authorized to adopt rules as
 1036 necessary to implement this section.

1037 Section 8. Subsections (8) and (9) of section 464.015,
 1038 Florida Statutes, are amended to read:

1039 464.015 Titles and abbreviations; restrictions; penalty.—

1040 (8) Only a person certified under s. 464.012 ~~persons who~~
 1041 ~~hold valid certificates~~ to practice as an advanced practice
 1042 registered nurse practitioners in this state may use the title
 1043 "Advanced Practice Registered Nurse Practitioner" and the
 1044 abbreviation "A.P.R.N." Only a person registered under s.
 1045 464.0125 to practice as an independent advanced practice
 1046 registered nurse in this state may use the title "Independent
 1047 Advanced Practice Registered Nurse" and the abbreviation
 1048 "I.A.P.R.N." "A.R.N.P."

1049 (9) A person may not practice or advertise as, or assume
 1050 the title of, registered nurse, licensed practical nurse,

1051 clinical nurse specialist, certified registered nurse
 1052 anesthetist, certified nurse midwife, certified nurse
 1053 practitioner, ~~or~~ advanced practice registered nurse, or
 1054 independent advanced practice registered nurse practitioner or
 1055 use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.,"
 1056 "C.N.M.," "C.N.P.," "A.P.R.N.," or "I.A.P.R.N." "A.R.N.P." or
 1057 take any other action that would lead the public to believe that
 1058 person was certified or registered as such or is performing
 1059 nursing services pursuant to the exception set forth in s.
 1060 464.022(8), unless that person is licensed, ~~or~~ certified,
 1061 registered to practice as such.

1062 Section 9. Effective January 1, 2018, section 464.0155,
 1063 Florida Statutes, is created to read:

1064 464.0155 Reports of adverse incidents by independent
 1065 advanced practice registered nurses.-

1066 (1) An independent advanced practice registered nurse must
 1067 report an adverse incident to the department in accordance with
 1068 this section.

1069 (2) The report must be in writing, sent to the department
 1070 by certified mail, and postmarked within 15 days after the
 1071 adverse incident if the adverse incident occurs when the patient
 1072 is at the office of the independent advanced practice registered
 1073 nurse. If the adverse incident occurs when the patient is not at
 1074 the office of the independent advanced practice registered
 1075 nurse, the report must be postmarked within 15 days after the

1076 independent advanced practice registered nurse discovers, or
 1077 reasonably should have discovered, the occurrence of the adverse
 1078 incident.

1079 (3) For the purpose of this section, the term "adverse
 1080 incident" means any of the following events when it is
 1081 reasonable to believe that the event is attributable to the
 1082 prescription of a controlled substance by the independent
 1083 advanced practice registered nurse:

1084 (a) A condition that requires the transfer of a patient to
 1085 a hospital licensed under chapter 395.

1086 (b) Permanent physical injury to the patient.

1087 (c) Death of the patient.

1088 (4) The department shall review each adverse incident and
 1089 determine whether the independent advanced practice registered
 1090 nurse caused the adverse incident. The board may take
 1091 disciplinary action upon such a finding, in which case s.
 1092 456.073 applies.

1093 Section 10. Paragraph (a) of subsection (2) of section
 1094 464.016, Florida Statutes, is amended to read:

1095 464.016 Violations and penalties.—

1096 (2) Each of the following acts constitutes a misdemeanor
 1097 of the first degree, punishable as provided in s. 775.082 or s.
 1098 775.083:

1099 (a) Using the name or title "Nurse," "Registered Nurse,"
 1100 "Licensed Practical Nurse," "Clinical Nurse Specialist,"

1101 "Certified Registered Nurse Anesthetist," "Certified Nurse
 1102 Midwife," "Certified Nurse Practitioner," "Advanced Practice
 1103 Registered Nurse Practitioner," "Independent Advanced Practice
 1104 Registered Nurse," or any other name or title that ~~which~~ implies
 1105 that a person was licensed, ~~or~~ certified, or registered as same,
 1106 unless such person is duly licensed, ~~or~~ certified, or
 1107 registered.

1108 Section 11. Paragraph (p) of subsection (1) of section
 1109 464.018, Florida Statutes, is amended, and paragraph (r) is
 1110 added to that subsection, to read:

1111 464.018 Disciplinary actions.—

1112 (1) The following acts constitute grounds for denial of a
 1113 license or disciplinary action, as specified in s. 456.072(2):

1114 (p) For an advanced practice registered nurse or an
 1115 independent advanced practice registered nurse practitioner:

- 1116 1. Presigning blank prescription forms.
- 1117 2. Prescribing for office use any medicinal drug appearing
 1118 on Schedule II in chapter 893.
- 1119 3. Prescribing, ordering, dispensing, administering,
 1120 supplying, selling, or giving a drug that is an amphetamine, a
 1121 sympathomimetic amine drug, or a compound designated in s.
 1122 893.03(2) as a Schedule II controlled substance, to or for any
 1123 person except for:
 - 1124 a. The treatment of narcolepsy; hyperkinesia; behavioral
 1125 syndrome in children characterized by the developmentally

1126 inappropriate symptoms of moderate to severe distractibility,
 1127 short attention span, hyperactivity, emotional lability, and
 1128 impulsivity; or drug-induced brain dysfunction.

1129 b. The differential diagnostic psychiatric evaluation of
 1130 depression or the treatment of depression shown to be refractory
 1131 to other therapeutic modalities.

1132 c. The clinical investigation of the effects of such drugs
 1133 or compounds when an investigative protocol is submitted to,
 1134 reviewed by, and approved by the department before such
 1135 investigation is begun.

1136 4. Prescribing, ordering, dispensing, administering,
 1137 supplying, selling, or giving growth hormones, testosterone or
 1138 its analogs, human chorionic gonadotropin (HCG), or other
 1139 hormones for the purpose of muscle building or to enhance
 1140 athletic performance. As used in this subparagraph, the term
 1141 "muscle building" does not include the treatment of injured
 1142 muscle. A prescription written for the drug products identified
 1143 in this subparagraph may be dispensed by a pharmacist with the
 1144 presumption that the prescription is for legitimate medical use.

1145 5. Promoting or advertising on any prescription form a
 1146 community pharmacy unless the form also states: "This
 1147 prescription may be filled at any pharmacy of your choice."

1148 6. Prescribing, dispensing, administering, mixing, or
 1149 otherwise preparing a legend drug, including a controlled
 1150 substance, other than in the course of his or her professional

1151 practice. For the purposes of this subparagraph, it is legally
 1152 presumed that prescribing, dispensing, administering, mixing, or
 1153 otherwise preparing legend drugs, including all controlled
 1154 substances, inappropriately or in excessive or inappropriate
 1155 quantities is not in the best interest of the patient and is not
 1156 in the course of the advanced practice registered nurse's ~~nurse~~
 1157 ~~practitioner's~~ professional practice, without regard to his or
 1158 her intent.

1159 7. Prescribing, dispensing, or administering a medicinal
 1160 drug appearing on any schedule set forth in chapter 893 to
 1161 himself or herself, except a drug prescribed, dispensed, or
 1162 administered to the advanced practice registered nurse or the
 1163 independent advanced practice registered nurse ~~practitioner~~ by
 1164 another practitioner authorized to prescribe, dispense, or
 1165 administer medicinal drugs.

1166 8. Prescribing, ordering, dispensing, administering,
 1167 supplying, selling, or giving amygdalin (laetrile) to any
 1168 person.

1169 9. Dispensing a substance designated in s. 893.03(2) or
 1170 (3) as a substance controlled in Schedule II or Schedule III,
 1171 respectively, in violation of s. 465.0276.

1172 10. Promoting or advertising through any communication
 1173 medium the use, sale, or dispensing of a substance designated in
 1174 s. 893.03 as a controlled substance.

1175 (r) For an independent advanced practice registered nurse
 1176 registered under s. 464.0125:

1177 1. Paying or receiving any commission, bonus, kickback, or
 1178 rebate, or engaging in any split-fee arrangement in any form
 1179 whatsoever with a health care practitioner, organization,
 1180 agency, or person, either directly or indirectly, for patients
 1181 referred to providers of health care goods and services,
 1182 including, but not limited to, hospitals, nursing homes,
 1183 clinical laboratories, ambulatory surgical centers, or
 1184 pharmacies. This subparagraph may not be construed to prevent an
 1185 independent advanced practice registered nurse from receiving a
 1186 fee for professional consultation services.

1187 2. Exercising influence within a patient-independent
 1188 advanced practice registered nurse relationship for purposes of
 1189 engaging a patient in sexual activity. A patient shall be
 1190 presumed to be incapable of giving free, full, and informed
 1191 consent to sexual activity with his or her independent advanced
 1192 practice registered nurse.

1193 3. Making deceptive, untrue, or fraudulent representations
 1194 in or related to the practice of advanced or specialized nursing
 1195 or employing a trick or scheme in the practice of advanced or
 1196 specialized nursing.

1197 4. Soliciting patients, either personally or through an
 1198 agent, through the use of fraud, intimidation, undue influence,
 1199 or a form of overreaching or vexatious conduct. A solicitation

1200 is any communication that directly or implicitly requests an
 1201 immediate oral response from the recipient.

1202 5. Failing to keep legible, as defined by department rule
 1203 in consultation with the board, medical records that identify
 1204 the independent advanced practice registered nurse by name and
 1205 professional title who is responsible for rendering, ordering,
 1206 supervising, or billing for each diagnostic or treatment
 1207 procedure and that justify the course of treatment of the
 1208 patient, including, but not limited to, patient histories;
 1209 examination results; test results; records of drugs prescribed,
 1210 dispensed, or administered; and reports of consultations or
 1211 referrals.

1212 6. Exercising influence on a patient or client in a manner
 1213 as to exploit the patient or client for the financial gain of
 1214 the licensee or of a third party, which shall include, but not
 1215 be limited to, the promoting or selling of services, goods,
 1216 appliances, or drugs.

1217 7. Performing professional services that have not been
 1218 duly authorized by the patient or client, or his or her legal
 1219 representative, except as provided in s. 766.103 or s. 768.13.

1220 8. Performing any procedure or prescribing any therapy
 1221 that, by the prevailing standards of advanced or specialized
 1222 nursing practice in the community, would constitute
 1223 experimentation on a human subject, without first obtaining
 1224 full, informed, and written consent.

1225 9. Delegating professional responsibilities to a person
 1226 when the licensee delegating the responsibilities knows or has
 1227 reason to know that the person is not qualified by training,
 1228 experience, or licensure to perform such responsibilities.

1229 10. Conspiring with another independent advanced practice
 1230 registered nurse or with any other person to commit an act, or
 1231 committing an act, which would tend to coerce, intimidate, or
 1232 preclude another independent advanced practice registered nurse
 1233 from lawfully advertising his or her services.

1234 11. Advertising or holding oneself out as having
 1235 certification in a specialty that the independent advanced
 1236 practice registered nurse has not received.

1237 12. Failing to comply with the requirements of ss. 381.026
 1238 and 381.0261 to provide patients with information about their
 1239 patient rights and how to file a patient complaint.

1240 13. Providing deceptive or fraudulent expert witness
 1241 testimony related to the advanced or specialized practice of
 1242 nursing.

1243 Section 12. Paragraph (c) of subsection (5) and paragraph
 1244 (a) of subsection (6) of section 39.303, Florida Statutes, are
 1245 amended to read:

1246 39.303 Child protection teams; services; eligible cases.-

1247 (5) All abuse and neglect cases transmitted for
 1248 investigation to a district by the hotline must be
 1249 simultaneously transmitted to the Department of Health child

1250 protection team for review. For the purpose of determining
 1251 whether face-to-face medical evaluation by a child protection
 1252 team is necessary, all cases transmitted to the child protection
 1253 team which meet the criteria in subsection (4) must be timely
 1254 reviewed by:

1255 (c) An advanced practice registered nurse certified or an
 1256 independent advanced practice registered nurse registered
 1257 ~~practitioner licensed~~ under chapter 464 who has a specialty in
 1258 pediatrics or family medicine and is a member of a child
 1259 protection team;

1260 (6) A face-to-face medical evaluation by a child
 1261 protection team is not necessary when:

1262 (a) The child was examined for the alleged abuse or
 1263 neglect by a physician or an independent advanced practice
 1264 registered nurse who is not a member of the child protection
 1265 team, and a consultation between the child protection team
 1266 board-certified pediatrician, advanced practice registered nurse
 1267 ~~practitioner~~, physician assistant working under the supervision
 1268 of a child protection team board-certified pediatrician, or
 1269 registered nurse working under the direct supervision of a child
 1270 protection team board-certified pediatrician, and the examining
 1271 practitioner ~~physician~~ concludes that a further medical
 1272 evaluation is unnecessary;

1273

1274 Notwithstanding paragraphs (a), (b), and (c), a child protection

1275 team pediatrician, as authorized in subsection (5), may
 1276 determine that a face-to-face medical evaluation is necessary.

1277 Section 13. Paragraph (b) of subsection (1) of section
 1278 39.304, Florida Statutes, is amended to read:

1279 39.304 Photographs, medical examinations, X rays, and
 1280 medical treatment of abused, abandoned, or neglected child.—

1281 (1)

1282 (b) If the areas of trauma visible on a child indicate a
 1283 need for a medical examination, or if the child verbally
 1284 complains or otherwise exhibits distress as a result of injury
 1285 through suspected child abuse, abandonment, or neglect, or is
 1286 alleged to have been sexually abused, the person required to
 1287 investigate may cause the child to be referred for diagnosis to
 1288 a licensed physician, a physician assistant, an independent
 1289 advanced practice registered nurse, or an emergency department
 1290 in a hospital without the consent of the child's parents or
 1291 legal custodian. Such examination may be performed by a ~~any~~
 1292 licensed physician, a physician assistant, a registered
 1293 independent advanced practice registered nurse, or a certified
 1294 ~~an advanced practice registered nurse practitioner licensed~~
 1295 ~~pursuant to part I of chapter 464.~~ Any examining practitioner
 1296 ~~licensed physician, or advanced registered nurse practitioner~~
 1297 ~~licensed pursuant to part I of chapter 464,~~ who has reasonable
 1298 cause to suspect that an injury was the result of child abuse,
 1299 abandonment, or neglect may authorize a radiological examination

1300 to be performed on the child without the consent of the child's
 1301 parent or legal custodian.

1302 Section 14. Paragraph (a) of subsection (1) of section
 1303 90.503, Florida Statutes, is amended to read:

1304 90.503 Psychotherapist-patient privilege.-

1305 (1) For purposes of this section:

1306 (a) A "psychotherapist" is:

1307 1. A person authorized to practice medicine in any state
 1308 or nation, or reasonably believed by the patient so to be, who
 1309 is engaged in the diagnosis or treatment of a mental or
 1310 emotional condition, including alcoholism and other drug
 1311 addiction;

1312 2. A person licensed or certified as a psychologist under
 1313 the laws of any state or nation, who is engaged primarily in the
 1314 diagnosis or treatment of a mental or emotional condition,
 1315 including alcoholism and other drug addiction;

1316 3. A person licensed or certified as a clinical social
 1317 worker, marriage and family therapist, or mental health
 1318 counselor under the laws of this state, who is engaged primarily
 1319 in the diagnosis or treatment of a mental or emotional
 1320 condition, including alcoholism and other drug addiction;

1321 4. Treatment personnel of facilities licensed by the state
 1322 pursuant to chapter 394, chapter 395, or chapter 397, of
 1323 facilities designated by the Department of Children and Families
 1324 pursuant to chapter 394 as treatment facilities, or of

1325 facilities defined as community mental health centers pursuant
 1326 to s. 394.907(1), who are engaged primarily in the diagnosis or
 1327 treatment of a mental or emotional condition, including
 1328 alcoholism and other drug addiction; or

1329 5. An independent advanced practice registered nurse or
 1330 advanced practice registered nurse ~~practitioner certified under~~
 1331 ~~s. 464.012~~, whose primary scope of practice is the diagnosis or
 1332 treatment of mental or emotional conditions, including chemical
 1333 abuse, and limited only to actions performed in accordance with
 1334 part I of chapter 464.

1335 Section 15. Subsection (7) of section 110.12315, Florida
 1336 Statutes, is amended to read:

1337 110.12315 Prescription drug program.—The state employees'
 1338 prescription drug program is established. This program shall be
 1339 administered by the Department of Management Services, according
 1340 to the terms and conditions of the plan as established by the
 1341 relevant provisions of the annual General Appropriations Act and
 1342 implementing legislation, subject to the following conditions:

1343 (7) The department shall establish the reimbursement
 1344 schedule for prescription pharmaceuticals dispensed under the
 1345 program. Reimbursement rates for a prescription pharmaceutical
 1346 must be based on the cost of the generic equivalent drug if a
 1347 generic equivalent exists, unless the physician, independent
 1348 advanced practice registered nurse, advanced practice registered
 1349 nurse ~~practitioner~~, or physician assistant prescribing the

1350 pharmaceutical clearly states on the prescription that the brand
 1351 name drug is medically necessary or that the drug product is
 1352 included on the formulary of drug products that may not be
 1353 interchanged as provided in chapter 465, in which case
 1354 reimbursement must be based on the cost of the brand name drug
 1355 as specified in the reimbursement schedule adopted by the
 1356 department.

1357 Section 16. Paragraph (e) of subsection (8) of section
 1358 112.0455, Florida Statutes, is amended to read:

1359 112.0455 Drug-Free Workplace Act.—

1360 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
 1361 collection and testing for drugs under this section shall be
 1362 performed in accordance with the following procedures:

1363 (e) A specimen for a drug test may be taken or collected
 1364 by any of the following persons:

1365 1. A physician, a physician ~~physician's~~ assistant, an
 1366 independent advanced practice registered nurse, an advanced
 1367 practice registered nurse, a registered ~~professional~~ nurse, a
 1368 licensed practical nurse, a ~~nurse practitioner,~~ or a certified
 1369 paramedic who is present at the scene of an accident for the
 1370 purpose of rendering emergency medical service or treatment.

1371 2. A qualified person employed by a licensed laboratory.

1372 Section 17. Paragraph (f) of subsection (3) of section
 1373 121.0515, Florida Statutes, is amended to read:

1374 121.0515 Special Risk Class.—

1375 (3) CRITERIA.—A member, to be designated as a special risk
 1376 member, must meet the following criteria:

1377 (f) Effective January 1, 2001, the member must be employed
 1378 in one of the following classes and must spend at least 75
 1379 percent of his or her time performing duties which involve
 1380 contact with patients or inmates in a correctional or forensic
 1381 facility or institution:

- 1382 1. Dietitian (class codes 5203 and 5204);
- 1383 2. Public health nutrition consultant (class code 5224);
- 1384 3. Psychological specialist (class codes 5230 and 5231);
- 1385 4. Psychologist (class code 5234);
- 1386 5. Senior psychologist (class codes 5237 and 5238);
- 1387 6. Regional mental health consultant (class code 5240);
- 1388 7. Psychological Services Director—DCF (class code 5242);
- 1389 8. Pharmacist (class codes 5245 and 5246);
- 1390 9. Senior pharmacist (class codes 5248 and 5249);
- 1391 10. Dentist (class code 5266);
- 1392 11. Senior dentist (class code 5269);
- 1393 12. Registered nurse (class codes 5290 and 5291);
- 1394 13. Senior registered nurse (class codes 5292 and 5293);
- 1395 14. Registered nurse specialist (class codes 5294 and
 1396 5295);
- 1397 15. Clinical associate (class codes 5298 and 5299);
- 1398 16. Advanced practice registered nurse ~~practitioner~~ (class
 1399 codes 5297 and 5300);

- 1400 17. Advanced practice registered nurse ~~practitioner~~
 1401 specialist (class codes 5304 and 5305);
- 1402 18. Registered nurse supervisor (class codes 5306 and
 1403 5307);
- 1404 19. Senior registered nurse supervisor (class codes 5308
 1405 and 5309);
- 1406 20. Registered nursing consultant (class codes 5312 and
 1407 5313);
- 1408 21. Quality management program supervisor (class code
 1409 5314);
- 1410 22. Executive nursing director (class codes 5320 and
 1411 5321);
- 1412 23. Speech and hearing therapist (class code 5406); or
 1413 24. Pharmacy manager (class code 5251);
- 1414 Section 18. Paragraph (a) of subsection (3) of section
 1415 252.515, Florida Statutes, is amended to read:
 1416 252.515 Postdisaster Relief Assistance Act; immunity from
 1417 civil liability.—
- 1418 (3) As used in this section, the term:
 1419 (a) "Emergency first responder" means:
- 1420 1. A physician licensed under chapter 458.
 1421 2. An osteopathic physician licensed under chapter 459.
 1422 3. A chiropractic physician licensed under chapter 460.
 1423 4. A podiatric physician licensed under chapter 461.
 1424 5. A dentist licensed under chapter 466.

1425 6. An advanced practice registered nurse ~~practitioner~~
 1426 certified under s. 464.012.

1427 7. A physician assistant licensed under s. 458.347 or s.
 1428 459.022.

1429 8. A worker employed by a public or private hospital in
 1430 the state.

1431 9. A paramedic as defined in s. 401.23(17).

1432 10. An emergency medical technician as defined in s.
 1433 401.23(11).

1434 11. A firefighter as defined in s. 633.102.

1435 12. A law enforcement officer as defined in s. 943.10.

1436 13. A member of the Florida National Guard.

1437 14. Any other personnel designated as emergency personnel
 1438 by the Governor pursuant to a declared emergency.

1439 Section 19. Paragraph (c) of subsection (1) of section
 1440 310.071, Florida Statutes, is amended to read:

1441 310.071 Deputy pilot certification.—

1442 (1) In addition to meeting other requirements specified in
 1443 this chapter, each applicant for certification as a deputy pilot
 1444 must:

1445 (c) Be in good physical and mental health, as evidenced by
 1446 documentary proof of having satisfactorily passed a complete
 1447 physical examination administered by a licensed physician,
 1448 licensed physician assistant, or registered independent advanced
 1449 practice registered nurse within the preceding 6 months. The

1450 board shall adopt rules to establish requirements for passing
 1451 the physical examination, which rules shall establish minimum
 1452 standards for the physical or mental capabilities necessary to
 1453 carry out the professional duties of a certificated deputy
 1454 pilot. Such standards shall include zero tolerance for any
 1455 controlled substance regulated under chapter 893 unless that
 1456 individual is under the care of a physician, an independent
 1457 advanced practice registered nurse, an advanced practice
 1458 registered nurse ~~practitioner~~, or a physician assistant and that
 1459 controlled substance was prescribed by that physician,
 1460 independent advanced practice registered nurse, advanced
 1461 practice registered nurse ~~practitioner~~, or physician assistant.
 1462 To maintain eligibility as a certificated deputy pilot, each
 1463 certificated deputy pilot must annually provide documentary
 1464 proof of having satisfactorily passed a complete physical
 1465 examination administered by a licensed physician, licensed
 1466 physician assistant, or registered independent advanced practice
 1467 registered nurse. The practitioner ~~physician~~ must know the
 1468 minimum standards and certify that the certificateholder
 1469 satisfactorily meets the standards. The standards for
 1470 certificateholders shall include a drug test.

1471 Section 20. Subsection (3) of section 310.073, Florida
 1472 Statutes, is amended to read:

1473 310.073 State pilot licensing.—In addition to meeting
 1474 other requirements specified in this chapter, each applicant for

1475 license as a state pilot must:

1476 (3) Be in good physical and mental health, as evidenced by
 1477 documentary proof of having satisfactorily passed a complete
 1478 physical examination administered by a licensed physician,
 1479 licensed physician assistant, or registered independent advanced
 1480 practice registered nurse within the preceding 6 months. The
 1481 board shall adopt rules to establish requirements for passing
 1482 the physical examination, which rules shall establish minimum
 1483 standards for the physical or mental capabilities necessary to
 1484 carry out the professional duties of a licensed state pilot.
 1485 Such standards shall include zero tolerance for any controlled
 1486 substance regulated under chapter 893 unless that individual is
 1487 under the care of a physician, an independent advanced practice
 1488 registered nurse, an advanced practice registered nurse
 1489 ~~practitioner~~, or a physician assistant and that controlled
 1490 substance was prescribed by that physician, independent advanced
 1491 practice registered nurse, advanced practice registered nurse
 1492 ~~practitioner~~, or physician assistant. To maintain eligibility as
 1493 a licensed state pilot, each licensed state pilot must annually
 1494 provide documentary proof of having satisfactorily passed a
 1495 complete physical examination administered by a licensed
 1496 physician, licensed physician assistant, or registered
 1497 independent advanced practice registered nurse. The examining
 1498 practitioner ~~physician~~ must know the minimum standards and
 1499 certify that the licensee satisfactorily meets the standards.

1500 The standards for licensees shall include a drug test.

1501 Section 21. Paragraph (b) of subsection (3) of section
 1502 310.081, Florida Statutes, is amended to read:

1503 310.081 Department to examine and license state pilots and
 1504 certificate deputy pilots; vacancies.—

1505 (3) Pilots shall hold their licenses or certificates
 1506 pursuant to the requirements of this chapter so long as they:

1507 (b) Are in good physical and mental health as evidenced by
 1508 documentary proof of having satisfactorily passed a physical
 1509 examination administered by a licensed physician, an independent
 1510 advanced practice registered nurse, or a physician assistant
 1511 within each calendar year. The board shall adopt rules to
 1512 establish requirements for passing the physical examination,
 1513 which rules shall establish minimum standards for the physical
 1514 or mental capabilities necessary to carry out the professional
 1515 duties of a licensed state pilot or a certificated deputy pilot.
 1516 Such standards shall include zero tolerance for any controlled
 1517 substance regulated under chapter 893 unless that individual is
 1518 under the care of a physician, independent advanced practice
 1519 registered nurse, an advanced practice registered nurse
 1520 ~~practitioner~~, or a physician assistant and that controlled
 1521 substance was prescribed by that physician, independent advanced
 1522 practice registered nurse, advanced practice registered nurse
 1523 ~~practitioner~~, or physician assistant. To maintain eligibility as
 1524 a certificated deputy pilot or licensed state pilot, each

1525 certificated deputy pilot or licensed state pilot must annually
 1526 provide documentary proof of having satisfactorily passed a
 1527 complete physical examination administered by a licensed
 1528 physician. The examining practitioner ~~physician~~ must know the
 1529 minimum standards and certify that the certificateholder or
 1530 licensee satisfactorily meets the standards. The standards for
 1531 certificateholders and for licensees shall include a drug test.

1532

1533 Upon resignation or in the case of disability permanently
 1534 affecting a pilot's ability to serve, the state license or
 1535 certificate issued under this chapter shall be revoked by the
 1536 department.

1537 Section 22. Paragraph (b) of subsection (1) of section
 1538 320.0848, Florida Statutes, is amended to read:

1539 320.0848 Persons who have disabilities; issuance of
 1540 disabled parking permits; temporary permits; permits for certain
 1541 providers of transportation services to persons who have
 1542 disabilities.-

1543 (1)

1544 (b)1. The person must be currently certified as being
 1545 legally blind or as having any of the following disabilities
 1546 that render him or her unable to walk 200 feet without stopping
 1547 to rest:

1548 a. Inability to walk without the use of or assistance from
 1549 a brace, cane, crutch, prosthetic device, or other assistive

1550 device, or without the assistance of another person. If the
 1551 assistive device significantly restores the person's ability to
 1552 walk to the extent that the person can walk without severe
 1553 limitation, the person is not eligible for the exemption parking
 1554 permit.

1555 b. The need to permanently use a wheelchair.

1556 c. Restriction by lung disease to the extent that the
 1557 person's forced (respiratory) expiratory volume for 1 second,
 1558 when measured by spirometry, is less than 1 liter, or the
 1559 person's arterial oxygen is less than 60 mm/hg on room air at
 1560 rest.

1561 d. Use of portable oxygen.

1562 e. Restriction by cardiac condition to the extent that the
 1563 person's functional limitations are classified in severity as
 1564 Class III or Class IV according to standards set by the American
 1565 Heart Association.

1566 f. Severe limitation in the person's ability to walk due
 1567 to an arthritic, neurological, or orthopedic condition.

1568 2. The certification of disability which is required under
 1569 subparagraph 1. must be provided by a physician licensed under
 1570 chapter 458, chapter 459, or chapter 460;~~;~~ ~~by~~ a podiatric
 1571 physician licensed under chapter 461;~~;~~ ~~by~~ an optometrist
 1572 licensed under chapter 463;~~;~~ ~~by~~ an independent advanced practice
 1573 registered nurse registered or an advanced practice registered
 1574 nurse certified practitioner licensed under part I of chapter

1575 464; ~~under the protocol of a licensed physician as stated in~~
 1576 ~~this subparagraph,~~ by a physician assistant licensed under
 1577 chapter 458 or chapter 459;it or ~~by~~ a similarly licensed
 1578 physician from another state if the application is accompanied
 1579 by documentation of the physician's licensure in the other state
 1580 and a form signed by the out-of-state physician verifying his or
 1581 her knowledge of this state's eligibility guidelines.

1582 Section 23. Paragraph (c) of subsection (1) of section
 1583 381.00315, Florida Statutes, is amended to read:

1584 381.00315 Public health advisories; public health
 1585 emergencies; isolation and quarantines.—The State Health Officer
 1586 is responsible for declaring public health emergencies, issuing
 1587 public health advisories, and ordering isolation or quarantines.

1588 (1) As used in this section, the term:

1589 (c) "Public health emergency" means any occurrence, or
 1590 threat thereof, whether natural or manmade, which results or may
 1591 result in substantial injury or harm to the public health from
 1592 infectious disease, chemical agents, nuclear agents, biological
 1593 toxins, or situations involving mass casualties or natural
 1594 disasters. Before declaring a public health emergency, the State
 1595 Health Officer shall, to the extent possible, consult with the
 1596 Governor and shall notify the Chief of Domestic Security. The
 1597 declaration of a public health emergency shall continue until
 1598 the State Health Officer finds that the threat or danger has
 1599 been dealt with to the extent that the emergency conditions no

1600 longer exist and he or she terminates the declaration. However,
 1601 a declaration of a public health emergency may not continue for
 1602 longer than 60 days unless the Governor concurs in the renewal
 1603 of the declaration. The State Health Officer, upon declaration
 1604 of a public health emergency, may take actions that are
 1605 necessary to protect the public health. Such actions include,
 1606 but are not limited to:

1607 1. Directing manufacturers of prescription drugs or over-
 1608 the-counter drugs who are permitted under chapter 499 and
 1609 wholesalers of prescription drugs located in this state who are
 1610 permitted under chapter 499 to give priority to the shipping of
 1611 specified drugs to pharmacies and health care providers within
 1612 geographic areas that have been identified by the State Health
 1613 Officer. The State Health Officer must identify the drugs to be
 1614 shipped. Manufacturers and wholesalers located in the state must
 1615 respond to the State Health Officer's priority shipping
 1616 directive before shipping the specified drugs.

1617 2. Notwithstanding chapters 465 and 499 and rules adopted
 1618 thereunder, directing pharmacists employed by the department to
 1619 compound bulk prescription drugs and provide these bulk
 1620 prescription drugs to physicians and nurses of county health
 1621 departments or any qualified person authorized by the State
 1622 Health Officer for administration to persons as part of a
 1623 prophylactic or treatment regimen.

1624 3. Notwithstanding s. 456.036, temporarily reactivating

1625 the inactive license of the following health care practitioners,
 1626 when such practitioners are needed to respond to the public
 1627 health emergency: physicians licensed under chapter 458 or
 1628 chapter 459; physician assistants licensed under chapter 458 or
 1629 chapter 459; independent advanced practice registered nurses
 1630 registered, licensed practical nurses or, registered nurses
 1631 licensed, and advanced practice registered nurses certified
 1632 ~~nurse practitioners licensed~~ under part I of chapter 464;
 1633 respiratory therapists licensed under part V of chapter 468; and
 1634 emergency medical technicians and paramedics certified under
 1635 part III of chapter 401. Only those health care practitioners
 1636 specified in this paragraph who possess an unencumbered inactive
 1637 license and who request that such license be reactivated are
 1638 eligible for reactivation. An inactive license that is
 1639 reactivated under this paragraph shall return to inactive status
 1640 when the public health emergency ends or before the end of the
 1641 public health emergency if the State Health Officer determines
 1642 that the health care practitioner is no longer needed to provide
 1643 services during the public health emergency. Such licenses may
 1644 only be reactivated for a period not to exceed 90 days without
 1645 meeting the requirements of s. 456.036 or chapter 401, as
 1646 applicable.

1647 4. Ordering an individual to be examined, tested,
 1648 vaccinated, treated, isolated, or quarantined for communicable
 1649 diseases that have significant morbidity or mortality and

1650 present a severe danger to public health. Individuals who are
 1651 unable or unwilling to be examined, tested, vaccinated, or
 1652 treated for reasons of health, religion, or conscience may be
 1653 subjected to isolation or quarantine.

1654 a. Examination, testing, vaccination, or treatment may be
 1655 performed by any qualified person authorized by the State Health
 1656 Officer.

1657 b. If the individual poses a danger to the public health,
 1658 the State Health Officer may subject the individual to isolation
 1659 or quarantine. If there is no practical method to isolate or
 1660 quarantine the individual, the State Health Officer may use any
 1661 means necessary to vaccinate or treat the individual.

1662
 1663 Any order of the State Health Officer given to effectuate this
 1664 paragraph shall be immediately enforceable by a law enforcement
 1665 officer under s. 381.0012.

1666 Section 24. Subsection (3) of section 381.00593, Florida
 1667 Statutes, is amended to read:

1668 381.00593 Public school volunteer health care practitioner
 1669 program.—

1670 (3) For purposes of this section, the term "health care
 1671 practitioner" means a physician or physician assistant licensed
 1672 under chapter 458; an osteopathic physician or physician
 1673 assistant licensed under chapter 459; a chiropractic physician
 1674 licensed under chapter 460; a podiatric physician licensed under

1675 chapter 461; an optometrist licensed under chapter 463; an
 1676 independent advanced practice registered nurse registered, an
 1677 advanced practice registered nurse certified practitioner, or a
 1678 registered nurse, or licensed practical nurse licensed under
 1679 part I of chapter 464; a pharmacist licensed under chapter 465;
 1680 a dentist or dental hygienist licensed under chapter 466; a
 1681 midwife licensed under chapter 467; a speech-language
 1682 pathologist or audiologist licensed under part I of chapter 468;
 1683 a dietitian/nutritionist licensed under part X of chapter 468;
 1684 or a physical therapist licensed under chapter 486.

1685 Section 25. Paragraph (c) of subsection (2) of section
 1686 381.026, Florida Statutes, is amended to read:

1687 381.026 Florida Patient's Bill of Rights and
 1688 Responsibilities.-

1689 (2) DEFINITIONS.-As used in this section and s. 381.0261,
 1690 the term:

1691 (c) "Health care provider" means a physician or physician
 1692 assistant licensed under chapter 458, an osteopathic physician
 1693 or physician assistant licensed under chapter 459, ~~or~~ a
 1694 podiatric physician licensed under chapter 461, or an
 1695 independent advanced practice registered nurse registered under
 1696 part I of chapter 464.

1697 Section 26. Paragraph (a) of subsection (2) and
 1698 subsections (3), (4), and (5) of section 382.008, Florida
 1699 Statutes, are amended to read:

1700 382.008 Death and fetal death registration.—
 1701 (2)(a) The funeral director who first assumes custody of a
 1702 dead body or fetus shall file the certificate of death or fetal
 1703 death. In the absence of the funeral director, the physician,
 1704 physician assistant, independent advanced practice registered
 1705 nurse, advanced practice registered nurse, or other person in
 1706 attendance at or after the death or the district medical
 1707 examiner of the county in which the death occurred or the body
 1708 was found shall file the certificate of death or fetal death.
 1709 The person who files the certificate shall obtain personal data
 1710 from a legally authorized person as described in s. 497.005 or
 1711 the best qualified person or source available. The medical
 1712 certification of cause of death shall be furnished to the
 1713 funeral director, either in person or via certified mail or
 1714 electronic transfer, by the physician, physician assistant,
 1715 independent advanced practice registered nurse, advanced
 1716 practice registered nurse, or medical examiner responsible for
 1717 furnishing such information. For fetal deaths, the physician,
 1718 certified nurse midwife, midwife, or hospital administrator
 1719 shall provide any medical or health information to the funeral
 1720 director within 72 hours after expulsion or extraction.
 1721 (3) Within 72 hours after receipt of a death or fetal
 1722 death certificate from the funeral director, the medical
 1723 certification of cause of death shall be completed and made
 1724 available to the funeral director by the decedent's primary or

1725 attending practitioner ~~physician~~ or, if s. 382.011 applies, the
 1726 district medical examiner of the county in which the death
 1727 occurred or the body was found. The primary or attending
 1728 practitioner ~~physician~~ or the medical examiner shall certify
 1729 over his or her signature the cause of death to the best of his
 1730 or her knowledge and belief. As used in this section, the term
 1731 "primary or attending practitioner ~~physician~~" means a physician,
 1732 a physician assistant, an independent advanced practice
 1733 registered nurse, or an advanced practice registered nurse, who
 1734 treated the decedent through examination, medical advice, or
 1735 medication during the 12 months preceding the date of death.

1736 (a) The department may grant the funeral director an
 1737 extension of time upon a good and sufficient showing of any of
 1738 the following conditions:

- 1739 1. An autopsy is pending.
- 1740 2. Toxicology, laboratory, or other diagnostic reports
 1741 have not been completed.
- 1742 3. The identity of the decedent is unknown and further
 1743 investigation or identification is required.

1744 (b) If the decedent's primary or attending practitioner
 1745 ~~physician~~ or the district medical examiner of the county in
 1746 which the death occurred or the body was found indicates that he
 1747 or she will sign and complete the medical certification of cause
 1748 of death but will not be available until after the 5-day
 1749 registration deadline, the local registrar may grant an

1750 extension of 5 days. If a further extension is required, the
 1751 funeral director must provide written justification to the
 1752 registrar.

1753 (4) If the department or local registrar grants an
 1754 extension of time to provide the medical certification of cause
 1755 of death, the funeral director shall file a temporary
 1756 certificate of death or fetal death which shall contain all
 1757 available information, including the fact that the cause of
 1758 death is pending. The decedent's primary or attending
 1759 practitioner ~~physician~~ or the district medical examiner of the
 1760 county in which the death occurred or the body was found shall
 1761 provide an estimated date for completion of the permanent
 1762 certificate.

1763 (5) A permanent certificate of death or fetal death,
 1764 containing the cause of death and any other information that was
 1765 previously unavailable, shall be registered as a replacement for
 1766 the temporary certificate. The permanent certificate may also
 1767 include corrected information if the items being corrected are
 1768 noted on the back of the certificate and dated and signed by the
 1769 funeral director, physician, physician assistant, independent
 1770 advanced practice registered nurse, advanced practice registered
 1771 nurse, or district medical examiner of the county in which the
 1772 death occurred or the body was found, as appropriate.

1773 Section 27. Paragraph (c) of subsection (1) of section
 1774 383.14, Florida Statutes, is amended to read:

1775 383.14 Screening for metabolic disorders, other hereditary
1776 and congenital disorders, and environmental risk factors.—

1777 (1) SCREENING REQUIREMENTS.—To help ensure access to the
1778 maternal and child health care system, the Department of Health
1779 shall promote the screening of all newborns born in Florida for
1780 metabolic, hereditary, and congenital disorders known to result
1781 in significant impairment of health or intellect, as screening
1782 programs accepted by current medical practice become available
1783 and practical in the judgment of the department. The department
1784 shall also promote the identification and screening of all
1785 newborns in this state and their families for environmental risk
1786 factors such as low income, poor education, maternal and family
1787 stress, emotional instability, substance abuse, and other high-
1788 risk conditions associated with increased risk of infant
1789 mortality and morbidity to provide early intervention,
1790 remediation, and prevention services, including, but not limited
1791 to, parent support and training programs, home visitation, and
1792 case management. Identification, perinatal screening, and
1793 intervention efforts shall begin prior to and immediately
1794 following the birth of the child by the attending health care
1795 provider. Such efforts shall be conducted in hospitals,
1796 perinatal centers, county health departments, school health
1797 programs that provide prenatal care, and birthing centers, and
1798 reported to the Office of Vital Statistics.

1799 (c) Release of screening results.—Notwithstanding any law

1800 to the contrary, the State Public Health Laboratory may release,
 1801 directly or through the Children's Medical Services program, the
 1802 results of a newborn's hearing and metabolic tests or screenings
 1803 to the newborn's health care practitioner. As used in this
 1804 paragraph, the term "health care practitioner" means a physician
 1805 or physician assistant licensed under chapter 458; an
 1806 osteopathic physician or physician assistant licensed under
 1807 chapter 459; an independent advanced practice registered nurse
 1808 registered, an advanced practice registered nurse certified
 1809 practitioner, or a registered nurse, or ~~licensed~~ practical nurse
 1810 licensed under part I of chapter 464; a midwife licensed under
 1811 chapter 467; a speech-language pathologist or audiologist
 1812 licensed under part I of chapter 468; or a dietician or
 1813 nutritionist licensed under part X of chapter 468.

1814 Section 28. Paragraph (c) of subsection (1) of section
 1815 383.141, Florida Statutes, is amended to read:

1816 383.141 Prenatally diagnosed conditions; patient to be
 1817 provided information; definitions; information clearinghouse;
 1818 advisory council.—

1819 (1) As used in this section, the term:

1820 (c) "Health care provider" means a practitioner licensed
 1821 or registered under chapter 458 or chapter 459 or an independent
 1822 advanced practice registered nurse registered or an advanced
 1823 practice registered nurse practitioner certified under part I of
 1824 chapter 464.

1825 Section 29. Paragraph (a) of subsection (7) of section
 1826 384.27, Florida Statutes, is amended to read:

1827 384.27 Physical examination and treatment.—

1828 (7) (a) A health care practitioner licensed under chapter
 1829 458 or chapter 459, registered under s. 464.0125, or certified
 1830 under s. 464.012 may provide expedited partner therapy if the
 1831 following requirements are met:

1832 1. The patient has a laboratory-confirmed or suspected
 1833 clinical diagnosis of a sexually transmissible disease.

1834 2. The patient indicates that he or she has a partner with
 1835 whom he or she engaged in sexual activity before the diagnosis
 1836 of the sexually transmissible disease.

1837 3. The patient indicates that his or her partner is unable
 1838 or unlikely to seek clinical services in a timely manner.

1839 Section 30. Paragraph (a) of subsection (3) of section
 1840 390.0111, Florida Statutes, is amended to read:

1841 390.0111 Termination of pregnancies.—

1842 (3) CONSENTS REQUIRED.—A termination of pregnancy may not
 1843 be performed or induced except with the voluntary and informed
 1844 written consent of the pregnant woman or, in the case of a
 1845 mental incompetent, the voluntary and informed written consent
 1846 of her court-appointed guardian.

1847 (a) Except in the case of a medical emergency, consent to
 1848 a termination of pregnancy is voluntary and informed only if:

1849 1. The physician who is to perform the procedure, or the

1850 referring physician, has, at a minimum, orally, while physically
 1851 present in the same room, and at least 24 hours before the
 1852 procedure, informed the woman of:

1853 a. The nature and risks of undergoing or not undergoing
 1854 the proposed procedure that a reasonable patient would consider
 1855 material to making a knowing and willful decision of whether to
 1856 terminate a pregnancy.

1857 b. The probable gestational age of the fetus, verified by
 1858 an ultrasound, at the time the termination of pregnancy is to be
 1859 performed.

1860 (I) The ultrasound must be performed by the physician who
 1861 is to perform the abortion or by a person having documented
 1862 evidence that he or she has completed a course in the operation
 1863 of ultrasound equipment as prescribed by rule and who is working
 1864 in conjunction with the physician.

1865 (II) The person performing the ultrasound must offer the
 1866 woman the opportunity to view the live ultrasound images and
 1867 hear an explanation of them. If the woman accepts the
 1868 opportunity to view the images and hear the explanation, a
 1869 physician or a registered nurse, a licensed practical nurse, an
 1870 advanced practice registered nurse practitioner, an independent
 1871 advanced practice registered nurse, or a physician assistant
 1872 working in conjunction with the physician must contemporaneously
 1873 review and explain the images to the woman before the woman
 1874 gives informed consent to having an abortion procedure

1875 performed.

1876 (III) The woman has a right to decline to view and hear
 1877 the explanation of the live ultrasound images after she is
 1878 informed of her right and offered an opportunity to view the
 1879 images and hear the explanation. If the woman declines, the
 1880 woman shall complete a form acknowledging that she was offered
 1881 an opportunity to view and hear the explanation of the images
 1882 but that she declined that opportunity. The form must also
 1883 indicate that the woman's decision was not based on any undue
 1884 influence from any person to discourage her from viewing the
 1885 images or hearing the explanation and that she declined of her
 1886 own free will.

1887 (IV) Unless requested by the woman, the person performing
 1888 the ultrasound may not offer the opportunity to view the images
 1889 and hear the explanation and the explanation may not be given
 1890 if, at the time the woman schedules or arrives for her
 1891 appointment to obtain an abortion, a copy of a restraining
 1892 order, police report, medical record, or other court order or
 1893 documentation is presented which provides evidence that the
 1894 woman is obtaining the abortion because the woman is a victim of
 1895 rape, incest, domestic violence, or human trafficking or that
 1896 the woman has been diagnosed as having a condition that, on the
 1897 basis of a physician's good faith clinical judgment, would
 1898 create a serious risk of substantial and irreversible impairment
 1899 of a major bodily function if the woman delayed terminating her

1900 pregnancy.

1901 c. The medical risks to the woman and fetus of carrying
1902 the pregnancy to term.

1903

1904 The physician may provide the information required in this
1905 subparagraph within 24 hours before the procedure if requested
1906 by the woman at the time she schedules or arrives for her
1907 appointment to obtain an abortion and if she presents to the
1908 physician a copy of a restraining order, police report, medical
1909 record, or other court order or documentation evidencing that
1910 she is obtaining the abortion because she is a victim of rape,
1911 incest, domestic violence, or human trafficking.

1912 2. Printed materials prepared and provided by the
1913 department have been provided to the pregnant woman, if she
1914 chooses to view these materials, including:

1915 a. A description of the fetus, including a description of
1916 the various stages of development.

1917 b. A list of entities that offer alternatives to
1918 terminating the pregnancy.

1919 c. Detailed information on the availability of medical
1920 assistance benefits for prenatal care, childbirth, and neonatal
1921 care.

1922 3. The woman acknowledges in writing, before the
1923 termination of pregnancy, that the information required to be
1924 provided under this subsection has been provided.

1925

1926 Nothing in this paragraph is intended to prohibit a physician
 1927 from providing any additional information which the physician
 1928 deems material to the woman's informed decision to terminate her
 1929 pregnancy.

1930 Section 31. Paragraphs (c), (e), and (f) of subsection (3)
 1931 of section 390.012, Florida Statutes, are amended to read:

1932 390.012 Powers of agency; rules; disposal of fetal
 1933 remains.-

1934 (3) For clinics that perform or claim to perform abortions
 1935 after the first trimester of pregnancy, the agency shall adopt
 1936 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 1937 provisions of this chapter, including the following:

1938 (c) Rules relating to abortion clinic personnel. At a
 1939 minimum, these rules shall require that:

1940 1. The abortion clinic designate a medical director who is
 1941 licensed to practice medicine in this state, and all physicians
 1942 who perform abortions in the clinic have admitting privileges at
 1943 a hospital within reasonable proximity to the clinic, unless the
 1944 clinic has a written patient transfer agreement with a hospital
 1945 within reasonable proximity to the clinic which includes the
 1946 transfer of the patient's medical records held by both the
 1947 clinic and the treating physician.

1948 2. If a physician is not present after an abortion is
 1949 performed, a registered nurse, a licensed practical nurse, an

1950 independent advanced practice registered nurse, an advanced
 1951 practice registered nurse ~~practitioner~~, or a physician assistant
 1952 be present and remain at the clinic to provide postoperative
 1953 monitoring and care until the patient is discharged.

1954 3. Surgical assistants receive training in counseling,
 1955 patient advocacy, and the specific responsibilities associated
 1956 with the services the surgical assistants provide.

1957 4. Volunteers receive training in the specific
 1958 responsibilities associated with the services the volunteers
 1959 provide, including counseling and patient advocacy as provided
 1960 in the rules adopted by the director for different types of
 1961 volunteers based on their responsibilities.

1962 (e) Rules relating to the abortion procedure. At a
 1963 minimum, these rules shall require:

1964 1. That a physician, a registered nurse, a licensed
 1965 practical nurse, an advanced practice registered nurse
 1966 ~~practitioner~~, an independent advanced practice registered nurse,
 1967 or a physician assistant is available to all patients throughout
 1968 the abortion procedure.

1969 2. Standards for the safe conduct of abortion procedures
 1970 that conform to obstetric standards in keeping with established
 1971 standards of care regarding the estimation of fetal age as
 1972 defined in rule.

1973 3. Appropriate use of general and local anesthesia,
 1974 analgesia, and sedation if ordered by the physician.

1975 4. Appropriate precautions, such as the establishment of
 1976 intravenous access at least for patients undergoing post-first
 1977 trimester abortions.

1978 5. Appropriate monitoring of the vital signs and other
 1979 defined signs and markers of the patient's status throughout the
 1980 abortion procedure and during the recovery period until the
 1981 patient's condition is deemed to be stable in the recovery room.

1982 (f) Rules that prescribe minimum recovery room standards.
 1983 At a minimum, these rules must require that:

1984 1. Postprocedure recovery rooms be supervised and staffed
 1985 to meet the patients' needs.

1986 2. Immediate postprocedure care consist of observation in
 1987 a supervised recovery room for as long as the patient's
 1988 condition warrants.

1989 3. A registered nurse, a licensed practical nurse, an
 1990 advanced practice registered nurse practitioner, an independent
 1991 advanced practice registered nurse, or physician assistant who
 1992 is trained in the management of the recovery area and is capable
 1993 of providing basic cardiopulmonary resuscitation and related
 1994 emergency procedures remain on the premises of the abortion
 1995 clinic until all patients are discharged.

1996 4. A physician sign the discharge order and be readily
 1997 accessible and available until the last patient is discharged to
 1998 facilitate the transfer of emergency cases if hospitalization of
 1999 the patient or viable fetus is necessary.

2000 5. A physician discuss Rho(D) immune globulin with each
 2001 patient for whom it is indicated and ensure that it is offered
 2002 to the patient in the immediate postoperative period or will be
 2003 available to her within 72 hours after completion of the
 2004 abortion procedure. If the patient refuses the Rho(D) immune
 2005 globulin, she and a witness must sign a refusal form approved by
 2006 the agency which must be included in the medical record.

2007 6. Written instructions with regard to postabortion
 2008 coitus, signs of possible problems, and general aftercare which
 2009 are specific to the patient be given to each patient. The
 2010 instructions must include information regarding access to
 2011 medical care for complications, including a telephone number for
 2012 use in the event of a medical emergency.

2013 7. A minimum length of time be specified, by type of
 2014 abortion procedure and duration of gestation, during which a
 2015 patient must remain in the recovery room.

2016 8. The physician ensure that, with the patient's consent,
 2017 a registered nurse, a licensed practical nurse, an advanced
 2018 practice registered nurse practitioner, an independent advance
 2019 practice registered nurse, or a physician assistant from the
 2020 abortion clinic makes a good faith effort to contact the patient
 2021 by telephone within 24 hours after surgery to assess the
 2022 patient's recovery.

2023 9. Equipment and services be readily accessible to provide
 2024 appropriate emergency resuscitative and life support procedures

2025 pending the transfer of the patient or viable fetus to the
 2026 hospital.

2027 Section 32. Subsection (35) of section 394.455, Florida
 2028 Statutes, is amended to read:

2029 394.455 Definitions.—As used in this part, the term:

2030 (35) "Psychiatric nurse" means an advanced practice
 2031 registered nurse ~~practitioner~~ certified or an independent
 2032 advanced practice registered nurse registered under part I of
 2033 chapter 464 s. 464.012 who has a master's or doctoral degree in
 2034 psychiatric nursing, holds a national advanced practice
 2035 certification as a psychiatric mental health advanced practice
 2036 nurse, and has 2 years of post-master's clinical experience
 2037 under the supervision of a physician, or an independent advanced
 2038 practice registered nurse registered under, or an advanced
 2039 practice registered nurse certified under, part I of chapter
 2040 464, who obtains national certification as a psychiatric-mental
 2041 health advanced practice nurse.

2042 Section 33. Paragraphs (a) and (f) of subsection (2) of
 2043 section 394.463, Florida Statutes, are amended to read:

2044 394.463 Involuntary examination.—

2045 (2) INVOLUNTARY EXAMINATION.—

2046 (a) An involuntary examination may be initiated by any one
 2047 of the following means:

2048 1. A circuit or county court may enter an ex parte order
 2049 stating that a person appears to meet the criteria for

2050 involuntary examination and specifying the findings on which
 2051 that conclusion is based. The ex parte order for involuntary
 2052 examination must be based on written or oral sworn testimony
 2053 that includes specific facts that support the findings. If other
 2054 less restrictive means are not available, such as voluntary
 2055 appearance for outpatient evaluation, a law enforcement officer,
 2056 or other designated agent of the court, shall take the person
 2057 into custody and deliver him or her to an appropriate, or the
 2058 nearest, facility within the designated receiving system
 2059 pursuant to s. 394.462 for involuntary examination. The order of
 2060 the court shall be made a part of the patient's clinical record.
 2061 A fee may not be charged for the filing of an order under this
 2062 subsection. A facility accepting the patient based on this order
 2063 must send a copy of the order to the department the next working
 2064 day. The order may be submitted electronically through existing
 2065 data systems, if available. The order shall be valid only until
 2066 the person is delivered to the facility or for the period
 2067 specified in the order itself, whichever comes first. If no time
 2068 limit is specified in the order, the order shall be valid for 7
 2069 days after the date that the order was signed.

2070 2. A law enforcement officer shall take a person who
 2071 appears to meet the criteria for involuntary examination into
 2072 custody and deliver the person or have him or her delivered to
 2073 an appropriate, or the nearest, facility within the designated
 2074 receiving system pursuant to s. 394.462 for examination. The

2075 officer shall execute a written report detailing the
 2076 circumstances under which the person was taken into custody,
 2077 which must be made a part of the patient's clinical record. Any
 2078 facility accepting the patient based on this report must send a
 2079 copy of the report to the department the next working day.

2080 3. A physician, a physician assistant, a clinical
 2081 psychologist, a psychiatric nurse, an independent advanced
 2082 practice registered nurse, an advanced practice registered
 2083 nurse, a mental health counselor, a marriage and family
 2084 therapist, or a clinical social worker may execute a certificate
 2085 stating that he or she has examined a person within the
 2086 preceding 48 hours and finds that the person appears to meet the
 2087 criteria for involuntary examination and stating the
 2088 observations upon which that conclusion is based. If other less
 2089 restrictive means, such as voluntary appearance for outpatient
 2090 evaluation, are not available, a law enforcement officer shall
 2091 take into custody the person named in the certificate and
 2092 deliver him or her to the appropriate, or nearest, facility
 2093 within the designated receiving system pursuant to s. 394.462
 2094 for involuntary examination. The law enforcement officer shall
 2095 execute a written report detailing the circumstances under which
 2096 the person was taken into custody. The report and certificate
 2097 shall be made a part of the patient's clinical record. Any
 2098 facility accepting the patient based on this certificate must
 2099 send a copy of the certificate to the department the next

2100 working day. The document may be submitted electronically
 2101 through existing data systems, if applicable.

2102 (f) A patient shall be examined by a physician, a
 2103 physician assistant, ~~or~~ a clinical psychologist, or by a
 2104 psychiatric nurse performing within the framework of an
 2105 established protocol with a psychiatrist at a facility without
 2106 unnecessary delay to determine if the criteria for involuntary
 2107 services are met. Emergency treatment may be provided upon the
 2108 order of a physician if the physician determines that such
 2109 treatment is necessary for the safety of the patient or others.
 2110 The patient may not be released by the receiving facility or its
 2111 contractor without the documented approval of a psychiatrist or
 2112 a clinical psychologist or, if the receiving facility is owned
 2113 or operated by a hospital or health system, the release may also
 2114 be approved by a psychiatric nurse performing within the
 2115 framework of an established protocol with a psychiatrist, or an
 2116 attending emergency department physician with experience in the
 2117 diagnosis and treatment of mental illness after completion of an
 2118 involuntary examination pursuant to this subsection. A
 2119 psychiatric nurse may not approve the release of a patient if
 2120 the involuntary examination was initiated by a psychiatrist
 2121 unless the release is approved by the initiating psychiatrist.

2122 Section 34. Paragraphs (a) and (b) of subsection (2) and
 2123 subsection (4) of section 395.0191, Florida Statutes, are
 2124 amended to read:

2125 395.0191 Staff membership and clinical privileges.—
 2126 (2)(a) Each licensed facility shall establish rules and
 2127 procedures for consideration of an application for clinical
 2128 privileges submitted by an independent advanced practice
 2129 registered nurse registered or an advanced practice registered
 2130 nurse ~~practitioner licensed and~~ certified under part I of
 2131 chapter 464, in accordance with the provisions of this section.
 2132 A ~~No~~ licensed facility may not ~~shall~~ deny such application
 2133 solely because the applicant is registered or certified ~~licensed~~
 2134 under part I of chapter 464 or because the applicant is not a
 2135 participant in the Florida Birth-Related Neurological Injury
 2136 Compensation Plan.

2137 (b) An advanced practice registered nurse ~~practitioner~~ who
 2138 is a certified ~~as a~~ registered nurse anesthetist ~~licensed~~ under
 2139 part I of chapter 464 shall administer anesthesia under the
 2140 onsite medical direction of a professional licensed under
 2141 chapter 458, chapter 459, or chapter 466, and in accordance with
 2142 an established protocol approved by the medical staff. The
 2143 medical direction shall specifically address the needs of the
 2144 individual patient. This paragraph does not apply to an
 2145 independent advanced practice registered nurse who is a
 2146 certified registered nurse anesthetist under part I of chapter
 2147 464.

2148 (4) Nothing herein shall restrict in any way the authority
 2149 of the medical staff of a licensed facility to review for

2150 approval or disapproval all applications for appointment and
 2151 reappointment to all categories of staff and to make
 2152 recommendations on each applicant to the governing board,
 2153 including the delineation of privileges to be granted in each
 2154 case. In making such recommendations and in the delineation of
 2155 privileges, each applicant shall be considered individually
 2156 pursuant to criteria for a doctor licensed under chapter 458,
 2157 chapter 459, chapter 461, or chapter 466;~~or~~ for an independent
 2158 advanced practice registered nurse registered or an advanced
 2159 practice registered nurse practitioner licensed and certified
 2160 under part I of chapter 464;~~or~~ or for a psychologist licensed
 2161 under chapter 490, as applicable. The applicant's eligibility
 2162 for staff membership or clinical privileges shall be determined
 2163 by the applicant's background, experience, health, training, and
 2164 demonstrated competency; the applicant's adherence to applicable
 2165 professional ethics; the applicant's reputation; and the
 2166 applicant's ability to work with others and by such other
 2167 elements as determined by the governing board, consistent with
 2168 this part.

2169 Section 35. Subsection (3) of section 395.602, Florida
 2170 Statutes, is amended to read:

2171 395.602 Rural hospitals.—

2172 (3) USE OF FUNDS.—It is the intent of the Legislature that
 2173 funds as appropriated shall be utilized by the department for
 2174 the purpose of increasing the number of primary care physicians,

2175 physician assistants, certified nurse midwives, certified nurse
 2176 practitioners, and nurses in rural areas, either through the
 2177 Medical Education Reimbursement and Loan Repayment Program as
 2178 defined by s. 1009.65 or through a federal loan repayment
 2179 program which requires state matching funds. The department may
 2180 use funds appropriated for the Medical Education Reimbursement
 2181 and Loan Repayment Program as matching funds for federal loan
 2182 repayment programs for health care personnel, such as that
 2183 authorized in Pub. L. No. 100-177, s. 203. If the department
 2184 receives federal matching funds, the department shall only
 2185 implement the federal program. Reimbursement through either
 2186 program shall be limited to:

2187 (a) Primary care physicians, physician assistants,
 2188 certified nurse midwives, certified nurse practitioners, and
 2189 nurses employed by or affiliated with rural hospitals, as
 2190 defined in this act; and

2191 (b) Primary care physicians, physician assistants,
 2192 certified nurse midwives, certified nurse practitioners, and
 2193 nurses employed by or affiliated with rural area health
 2194 education centers, as defined in this section. These personnel
 2195 shall practice:

- 2196 1. In a county with a population density of no greater
 2197 than 100 persons per square mile; or
- 2198 2. Within the boundaries of a hospital tax district which
 2199 encompasses a population of no greater than 100 persons per

2200 square mile.

2201

2202 If the department administers a federal loan repayment program,
 2203 priority shall be given to obligating state and federal matching
 2204 funds pursuant to paragraphs (a) and (b). The department may use
 2205 federal matching funds in other health workforce shortage areas
 2206 and medically underserved areas in the state for loan repayment
 2207 programs for primary care physicians, physician assistants,
 2208 certified nurse midwives, certified nurse practitioners, and
 2209 nurses who are employed by publicly financed health care
 2210 programs that serve medically indigent persons.

2211 Section 36. Paragraphs (b) and (c) of subsection (8) of
 2212 section 395.605, Florida Statutes, are amended to read:

2213 395.605 Emergency care hospitals.—

2214 (8)

2215 (b) All patients shall be under the care of a physician or
 2216 an independent advanced practice registered nurse or under the
 2217 care of an advanced practice registered ~~a nurse practitioner~~ or
 2218 a physician assistant supervised by a physician.

2219 (c) A physician, an independent advanced practice
 2220 registered nurse, an advanced practice registered nurse
 2221 ~~practitioner~~, or a physician assistant shall be on duty at all
 2222 times, or a physician shall be on call and available within 30
 2223 minutes at all times.

2224 Section 37. Subsection (33) of section 397.311, Florida

2225 Statutes, is amended to read:

2226 397.311 Definitions.—As used in this chapter, except part
2227 VIII, the term:

2228 (33) "Qualified professional" means a physician or a
2229 physician assistant licensed under chapter 458 or chapter 459; a
2230 professional licensed under chapter 490 or chapter 491; an
2231 independent advanced practice registered nurse registered or
2232 advanced practice registered nurse certified practitioner
2233 ~~licensed~~ under part I of chapter 464; or a person who is
2234 certified through a department-recognized certification process
2235 for substance abuse treatment services and who holds, at a
2236 minimum, a bachelor's degree. A person who is certified in
2237 substance abuse treatment services by a state-recognized
2238 certification process in another state at the time of employment
2239 with a licensed substance abuse provider in this state may
2240 perform the functions of a qualified professional as defined in
2241 this chapter but must meet certification requirements contained
2242 in this subsection no later than 1 year after his or her date of
2243 employment.

2244 Section 38. Section 397.405, Florida Statutes, is amended
2245 to read:

2246 397.405 Exemptions from licensure.—The following are
2247 exempt from the licensing provisions of this chapter:

2248 (1) A hospital or hospital-based component licensed under
2249 chapter 395.

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- 2250 (2) A nursing home facility as defined in s. 400.021.
 2251 (3) A substance abuse education program established
 2252 pursuant to s. 1003.42.
 2253 (4) A facility or institution operated by the Federal
 2254 Government.
 2255 (5) A physician or physician assistant licensed under
 2256 chapter 458 or chapter 459.
 2257 (6) A psychologist licensed under chapter 490.
 2258 (7) A social worker, marriage and family therapist, or
 2259 mental health counselor licensed under chapter 491.
 2260 (8) A legally cognizable church or nonprofit religious
 2261 organization or denomination providing substance abuse services,
 2262 including prevention services, which are solely religious,
 2263 spiritual, or ecclesiastical in nature. A church or nonprofit
 2264 religious organization or denomination providing any of the
 2265 licensed service components itemized under s. 397.311(25) is not
 2266 exempt from substance abuse licensure but retains its exemption
 2267 with respect to all services which are solely religious,
 2268 spiritual, or ecclesiastical in nature.
 2269 (9) Facilities licensed under chapter 393 which, in
 2270 addition to providing services to persons with developmental
 2271 disabilities, also provide services to persons developmentally
 2272 at risk as a consequence of exposure to alcohol or other legal
 2273 or illegal drugs while in utero.
 2274 (10) DUI education and screening services provided

2275 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.
 2276 Persons or entities providing treatment services must be
 2277 licensed under this chapter unless exempted from licensing as
 2278 provided in this section.

2279 (11) A facility licensed under s. 394.875 as a crisis
 2280 stabilization unit.

2281

2282 The exemptions from licensure in this section do not apply to
 2283 any service provider that receives an appropriation, grant, or
 2284 contract from the state to operate as a service provider as
 2285 defined in this chapter or to any substance abuse program
 2286 regulated pursuant to s. 397.406. Furthermore, this chapter may
 2287 not be construed to limit the practice of a physician or
 2288 physician assistant licensed under chapter 458 or chapter 459, a
 2289 psychologist licensed under chapter 490, a psychotherapist
 2290 licensed under chapter 491, or an independent advanced practice
 2291 registered nurse registered or an advanced practice registered
 2292 nurse certified practitioner licensed under part I of chapter
 2293 464, who provides substance abuse treatment, unless a
 2294 practitioner represents so long as the physician, physician
 2295 assistant, psychologist, psychotherapist, or advanced registered
 2296 nurse practitioner does not represent to the public that the
 2297 practitioner he or she is a licensed service provider and
 2298 provides does not provide services to individuals pursuant to
 2299 part V of this chapter. Failure to comply with any requirement

2300 necessary to maintain an exempt status under this section is a
 2301 misdemeanor of the first degree, punishable as provided in s.
 2302 775.082 or s. 775.083.

2303 Section 39. Subsections (4), (7), and (8) of section
 2304 397.427, Florida Statutes, are amended to read:

2305 397.427 Medication-assisted treatment service providers;
 2306 rehabilitation program; needs assessment and provision of
 2307 services; persons authorized to issue takeout medication;
 2308 unlawful operation; penalty.-

2309 (4) Notwithstanding s. 465.019(2), a physician assistant,
 2310 a registered nurse, an advanced practice registered nurse
 2311 ~~practitioner~~, or a licensed practical nurse working for a
 2312 licensed service provider may deliver takeout medication for
 2313 opiate treatment to persons enrolled in a maintenance treatment
 2314 program for medication-assisted treatment for opiate addiction
 2315 if:

2316 (a) The medication-assisted treatment program for opiate
 2317 addiction has an appropriate valid permit issued pursuant to
 2318 rules adopted by the Board of Pharmacy;

2319 (b) The medication for treatment of opiate addiction has
 2320 been delivered pursuant to a valid prescription written by the
 2321 program's physician licensed pursuant to chapter 458 or chapter
 2322 459;

2323 (c) The medication for treatment of opiate addiction which
 2324 is ordered appears on a formulary and is prepackaged and

2325 prelabeled with dosage instructions and distributed from a
 2326 source authorized under chapter 499;

2327 (d) Each licensed provider adopts written protocols which
 2328 provide for supervision of the physician assistant, registered
 2329 nurse, advanced practice registered nurse ~~practitioner~~, or
 2330 licensed practical nurse by a physician licensed pursuant to
 2331 chapter 458 or chapter 459 and for the procedures by which
 2332 patients' medications may be delivered by the physician
 2333 assistant, registered nurse, advanced practice registered nurse
 2334 ~~practitioner~~, or licensed practical nurse. Such protocols shall
 2335 be signed by the supervising physician and either the
 2336 administering registered nurse, the advanced practice registered
 2337 nurse ~~practitioner~~, or the licensed practical nurse.

2338 (e) Each licensed service provider maintains and has
 2339 available for inspection by representatives of the Board of
 2340 Pharmacy all medical records and patient care protocols,
 2341 including records of medications delivered to patients, in
 2342 accordance with the board.

2343 (7) A physician assistant, a registered nurse, an advanced
 2344 practice registered nurse ~~practitioner~~, or a licensed practical
 2345 nurse working for a licensed service provider may deliver
 2346 medication as prescribed by rule if:

2347 (a) The service provider is authorized to provide
 2348 medication-assisted treatment;

2349 (b) The medication has been administered pursuant to a

2350 valid prescription written by the program's physician who is
 2351 licensed under chapter 458 or chapter 459; and

2352 (c) The medication ordered appears on a formulary or meets
 2353 federal requirements for medication-assisted treatment.

2354 (8) Each licensed service provider that provides
 2355 medication-assisted treatment must adopt written protocols as
 2356 specified by the department and in accordance with federally
 2357 required rules, regulations, or procedures. The protocol shall
 2358 provide for the supervision of the physician assistant,
 2359 registered nurse, advanced practice registered nurse
 2360 ~~practitioner~~, or licensed practical nurse working under the
 2361 supervision of a physician who is licensed under chapter 458 or
 2362 chapter 459. The protocol must specify how the medication will
 2363 be used in conjunction with counseling or psychosocial treatment
 2364 and that the services provided will be included on the treatment
 2365 plan. The protocol must specify the procedures by which
 2366 medication-assisted treatment may be administered by the
 2367 supervised ~~physician assistant, registered nurse, advanced~~
 2368 ~~registered nurse practitioner, or licensed practical nurse~~.
 2369 These protocols shall be signed by the supervising physician and
 2370 the supervised ~~administering physician assistant, registered~~
 2371 ~~nurse, advanced registered nurse practitioner, or licensed~~
 2372 ~~practical nurse~~.

2373 Section 40. Paragraph (a) of subsection (2) of section
 2374 397.501, Florida Statutes, is amended to read:

2375 | 397.501 Rights of individuals.—Individuals receiving
 2376 | substance abuse services from any service provider are
 2377 | guaranteed protection of the rights specified in this section,
 2378 | unless otherwise expressly provided, and service providers must
 2379 | ensure the protection of such rights.

2380 | (2) RIGHT TO NONDISCRIMINATORY SERVICES.—

2381 | (a) Service providers may not deny an individual access to
 2382 | substance abuse services solely on the basis of race, gender,
 2383 | ethnicity, age, sexual preference, human immunodeficiency virus
 2384 | status, prior service departures against medical advice,
 2385 | disability, or number of relapse episodes. Service providers may
 2386 | not deny an individual who takes medication prescribed by a
 2387 | physician, a physician assistant, an independent advanced
 2388 | practice registered nurse, or an advanced practice registered
 2389 | nurse access to substance abuse services solely on that basis.
 2390 | Service providers who receive state funds to provide substance
 2391 | abuse services may not, if space and sufficient state resources
 2392 | are available, deny access to services based solely on inability
 2393 | to pay.

2394 | Section 41. Section 397.679, Florida Statutes, is amended
 2395 | to read:

2396 | 397.679 Emergency admission; circumstances justifying.—A
 2397 | person who meets the criteria for involuntary admission in s.
 2398 | 397.675 may be admitted to a hospital or to a licensed
 2399 | detoxification facility or addictions receiving facility for

2400 emergency assessment and stabilization, or to a less intensive
 2401 component of a licensed service provider for assessment only,
 2402 upon receipt by the facility of a certificate by a physician, an
 2403 independent advanced practice registered nurse, an advanced
 2404 practice registered nurse ~~practitioner~~, a psychiatric nurse, a
 2405 clinical psychologist, a clinical social worker, a marriage and
 2406 family therapist, a mental health counselor, a physician
 2407 assistant working under the scope of practice of the supervising
 2408 physician, or a master's-level-certified addictions professional
 2409 for substance abuse services, if the certificate is specific to
 2410 substance abuse impairment, and the completion of an application
 2411 for emergency admission.

2412 Section 42. Subsection (1) of section 397.6793, Florida
 2413 Statutes, is amended to read:

2414 397.6793 Professional's certificate for emergency
 2415 admission.—

2416 (1) A physician, a clinical psychologist, a physician
 2417 assistant working under the scope of practice of the supervising
 2418 physician, a psychiatric nurse, an independent advanced practice
 2419 registered nurse, an advanced practice registered nurse
 2420 ~~practitioner~~, a mental health counselor, a marriage and family
 2421 therapist, a master's-level-certified addictions professional
 2422 for substance abuse services, or a clinical social worker may
 2423 execute a professional's certificate for emergency admission.
 2424 The professional's certificate must include the name of the

2425 person to be admitted, the relationship between the person and
 2426 the professional executing the certificate, the relationship
 2427 between the applicant and the professional, any relationship
 2428 between the professional and the licensed service provider, a
 2429 statement that the person has been examined and assessed within
 2430 the preceding 5 days after the application date, and factual
 2431 allegations with respect to the need for emergency admission,
 2432 including:

2433 (a) The reason for the belief that the person is substance
 2434 abuse impaired;

2435 (b) The reason for the belief that because of such
 2436 impairment the person has lost the power of self-control with
 2437 respect to substance abuse; and

2438 (c)1. The reason for the belief that, without care or
 2439 treatment, the person is likely to suffer from neglect or refuse
 2440 to care for himself or herself; that such neglect or refusal
 2441 poses a real and present threat of substantial harm to his or
 2442 her well-being; and that it is not apparent that such harm may
 2443 be avoided through the help of willing family members or friends
 2444 or the provision of other services, or there is substantial
 2445 likelihood that the person has inflicted or, unless admitted, is
 2446 likely to inflict, physical harm on himself, herself, or
 2447 another; or

2448 2. The reason for the belief that the person's refusal to
 2449 voluntarily receive care is based on judgment so impaired by

2450 | reason of substance abuse that the person is incapable of
 2451 | appreciating his or her need for care and of making a rational
 2452 | decision regarding his or her need for care.

2453 | Section 43. Subsection (8) of section 400.021, Florida
 2454 | Statutes, is amended to read:

2455 | 400.021 Definitions.—When used in this part, unless the
 2456 | context otherwise requires, the term:

2457 | (8) "Geriatric outpatient clinic" means a site for
 2458 | providing outpatient health care to persons 60 years of age or
 2459 | older, which is staffed by a registered nurse, a physician
 2460 | assistant, or a licensed practical nurse under the direct
 2461 | supervision of a registered nurse, an independent advanced
 2462 | practice registered nurse, an advanced practice registered nurse
 2463 | ~~practitioner~~, a physician assistant, or a physician.

2464 | Section 44. Subsection (3) of section 400.0255, Florida
 2465 | Statutes, is amended to read:

2466 | 400.0255 Resident transfer or discharge; requirements and
 2467 | procedures; hearings.—

2468 | (3) When a discharge or transfer is initiated by the
 2469 | nursing home, the nursing home administrator employed by the
 2470 | nursing home that is discharging or transferring the resident,
 2471 | or an individual employed by the nursing home who is designated
 2472 | by the nursing home administrator to act on behalf of the
 2473 | administration, must sign the notice of discharge or transfer.
 2474 | Any notice indicating a medical reason for transfer or discharge

2475 must either be signed by the resident's attending physician or
 2476 the medical director of the facility, or include an attached
 2477 written order for the discharge or transfer. The notice or the
 2478 order must be signed by the resident's physician, medical
 2479 director, treating physician, independent advanced practice
 2480 registered nurse, advanced practice registered nurse
 2481 ~~practitioner~~, or physician assistant.

2482 Section 45. Subsection (3) of section 400.172, Florida
 2483 Statutes, is amended to read:

2484 400.172 Respite care provided in nursing home facilities.—

2485 (3) A prospective respite care resident must provide
 2486 medical information from a physician, a physician assistant, an
 2487 independent advanced practice registered nurse, or an advanced
 2488 practice registered nurse ~~practitioner~~ and any other information
 2489 provided by the primary caregiver required by the facility
 2490 before or when the person is admitted to receive respite care.
 2491 The medical information must include a physician's or an
 2492 independent advanced practice registered nurse's order for
 2493 respite care and proof of a physical examination by a licensed
 2494 physician, a physician assistant, an independent advanced
 2495 practice registered nurse, or an advanced practice registered
 2496 nurse ~~practitioner~~. The ~~physician's~~ order and physical
 2497 examination may be used to provide intermittent respite care for
 2498 up to 12 months after the date the order is written.

2499 Section 46. Subsections (20) through (30) of section

2500 400.462, Florida Statutes, are renumbered as subsections (21)
 2501 through (31), respectively, subsection (3) is amended, and a new
 2502 subsection (20) is added to that section, to read:

2503 400.462 Definitions.—As used in this part, the term:

2504 (3) "Advanced practice registered nurse practitioner"
 2505 means a person licensed in this state to practice professional
 2506 nursing and certified in advanced or specialized nursing
 2507 practice, as defined in s. 464.003.

2508 (20) "Independent advanced practice registered nurse"
 2509 means a person licensed in this state to practice professional
 2510 nursing as defined in s. 464.003 and registered to practice
 2511 advanced or specialized nursing independently and without
 2512 physician supervision or a protocol.

2513 Section 47. Subsection (2) of section 400.487, Florida
 2514 Statutes, is amended to read:

2515 400.487 Home health service agreements; physician's,
 2516 physician assistant's, independent advanced practice registered
 2517 nurse's and advanced practice registered nurse's ~~nurse~~
 2518 ~~practitioner's~~ treatment orders; patient assessment;
 2519 establishment and review of plan of care; provision of services;
 2520 orders not to resuscitate.—

2521 (2) When required by the provisions of chapter 464; part
 2522 I, part III, or part V of chapter 468; or chapter 486, the
 2523 attending physician, physician assistant, independent advanced
 2524 practice registered nurse, or advanced practice registered nurse

2525 ~~practitioner~~, acting within his or her respective scope of
 2526 practice, shall establish treatment orders for a patient who is
 2527 to receive skilled care. The treatment orders must be signed by
 2528 the physician, physician assistant, independent advanced
 2529 practice registered nurse, or advanced practice registered nurse
 2530 ~~practitioner~~ before a claim for payment for the skilled services
 2531 is submitted by the home health agency. If the claim is
 2532 submitted to a managed care organization, the treatment orders
 2533 must be signed within the time allowed under the provider
 2534 agreement. The treatment orders shall be reviewed, as frequently
 2535 as the patient's illness requires, by the physician, physician
 2536 assistant, independent advanced practice registered nurse, or
 2537 advanced practice registered nurse ~~practitioner~~ in consultation
 2538 with the home health agency.

2539 Section 48. Paragraph (a) of subsection (13) of section
 2540 400.506, Florida Statutes, is amended to read:

2541 400.506 Licensure of nurse registries; requirements;
 2542 penalties.—

2543 (13) All persons referred for contract in private
 2544 residences by a nurse registry must comply with the following
 2545 requirements for a plan of treatment:

2546 (a) When, in accordance with the privileges and
 2547 restrictions imposed upon a nurse under part I of chapter 464,
 2548 the delivery of care to a patient is under the direction or
 2549 supervision of a physician or when a physician is responsible

2550 for the medical care of the patient, a medical plan of treatment
 2551 must be established for each patient receiving care or treatment
 2552 provided by a licensed nurse in the home. The original medical
 2553 plan of treatment must be timely signed by the physician,
 2554 physician assistant, independent advanced practice registered
 2555 nurse, or advanced practice registered nurse ~~practitioner~~,
 2556 acting within his or her respective scope of practice, and
 2557 reviewed in consultation with the licensed nurse at least every
 2558 2 months. Any additional order or change in orders must be
 2559 obtained from, reduced to writing by, and timely signed by the
 2560 physician, physician assistant, independent advanced practice
 2561 registered nurse, or advanced practice registered nurse
 2562 ~~practitioner and reduced to writing and timely signed by the~~
 2563 ~~physician, physician assistant, or advanced registered nurse~~
 2564 ~~practitioner~~. The delivery of care under a medical plan of
 2565 treatment must be substantiated by the appropriate nursing notes
 2566 or documentation made by the nurse in compliance with nursing
 2567 practices established under part I of chapter 464.

2568 Section 49. Paragraph (g) of subsection (4) of section
 2569 400.9905, Florida Statutes, is amended to read:

2570 400.9905 Definitions.—

2571 (4) "Clinic" means an entity where health care services
 2572 are provided to individuals and which tenders charges for
 2573 reimbursement for such services, including a mobile clinic and a
 2574 portable equipment provider. As used in this part, the term does

2575 not include and the licensure requirements of this part do not
 2576 apply to:

2577 (g) A sole proprietorship, group practice, partnership, or
 2578 corporation that provides health care services by ~~licensed~~
 2579 health care practitioners licensed, certified, or registered
 2580 under chapter 457, chapter 458, chapter 459, chapter 460,
 2581 chapter 461, chapter 462, chapter 463, chapter 466, chapter 467,
 2582 chapter 480, chapter 484, chapter 486, chapter 490, chapter 491,
 2583 or part I, part III, part X, part XIII, or part XIV of chapter
 2584 468, ~~or~~ s. 464.012, or s. 464.0125, and that is wholly owned by
 2585 one or more licensed, certified, or registered health care
 2586 practitioners, or the ~~licensed~~ health care practitioners set
 2587 forth in this paragraph and the spouse, parent, child, or
 2588 sibling of such ~~a licensed~~ health care practitioner if one of
 2589 the owners who is a licensed, certified, or registered health
 2590 care practitioner is supervising the business activities and is
 2591 legally responsible for the entity's compliance with all federal
 2592 and state laws. However, a health care practitioner may not
 2593 supervise services beyond the scope of the practitioner's
 2594 license, certification, or registration, except that, for the
 2595 purposes of this part, a clinic owned by a licensee in s.
 2596 456.053(3)(b) which provides only services authorized pursuant
 2597 to s. 456.053(3)(b) may be supervised by a licensee specified in
 2598 s. 456.053(3)(b).
 2599

2600 Notwithstanding this subsection, an entity shall be deemed a
 2601 clinic and must be licensed under this part in order to receive
 2602 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
 2603 627.730-627.7405, unless exempted under s. 627.736(5)(h).

2604 Section 50. Subsection (5) and paragraph (b) of subsection
 2605 (7) of section 400.9973, Florida Statutes, are amended to read:

2606 400.9973 Client admission, transfer, and discharge.—

2607 (5) A client admitted to a transitional living facility
 2608 must be admitted upon prescription by a licensed physician,
 2609 physician assistant, independent advanced practice registered
 2610 nurse, or advanced practice registered nurse ~~practitioner~~ and
 2611 must remain under the care of a licensed physician, physician
 2612 assistant, independent advanced practice registered nurse, or
 2613 advanced practice registered nurse ~~practitioner~~ for the duration
 2614 of the client's stay in the facility.

2615 (7) A person may not be admitted to a transitional living
 2616 facility if the person:

2617 (b) Is a danger to himself or herself or others as
 2618 determined by a physician, physician assistant, independent
 2619 advanced practice registered nurse, or advanced practice
 2620 registered nurse ~~practitioner~~ or a mental health practitioner
 2621 licensed under chapter 490 or chapter 491, unless the facility
 2622 provides adequate staffing and support to ensure patient safety;

2623 Section 51. Subsection (1) and paragraphs (a) and (b) of
 2624 subsection (2) of section 400.9974, Florida Statutes, are

2625 amended to read:

2626 400.9974 Client comprehensive treatment plans; client
2627 services.—

2628 (1) A transitional living facility shall develop a
2629 comprehensive treatment plan for each client as soon as
2630 practicable but no later than 30 days after the initial
2631 comprehensive treatment plan is developed. The comprehensive
2632 treatment plan must be developed by an interdisciplinary team
2633 consisting of the case manager, the program director, the
2634 advanced practice registered nurse ~~practitioner~~, and appropriate
2635 therapists. The client or, if appropriate, the client's
2636 representative must be included in developing the comprehensive
2637 treatment plan. The comprehensive treatment plan must be
2638 reviewed and updated if the client fails to meet projected
2639 improvements outlined in the plan or if a significant change in
2640 the client's condition occurs. The comprehensive treatment plan
2641 must be reviewed and updated at least once monthly.

2642 (2) The comprehensive treatment plan must include:

2643 (a) Orders obtained from the physician, physician
2644 assistant, independent advanced practice registered nurse, or
2645 advanced practice registered nurse ~~practitioner~~ and the client's
2646 diagnosis, medical history, physical examination, and
2647 rehabilitative or restorative needs.

2648 (b) A preliminary nursing evaluation, including orders for
2649 immediate care provided by the physician, physician assistant,

2650 independent advanced practice registered nurse, or advanced
 2651 practice registered nurse ~~practitioner~~, which shall be completed
 2652 when the client is admitted.

2653 Section 52. Section 400.9976, Florida Statutes, is amended
 2654 to read:

2655 400.9976 Administration of medication.—

2656 (1) An individual medication administration record must be
 2657 maintained for each client. A dose of medication, including a
 2658 self-administered dose, shall be properly recorded in the
 2659 client's record. A client who self-administers medication shall
 2660 be given a pill organizer. Medication must be placed in the pill
 2661 organizer by a nurse. A nurse shall document the date and time
 2662 that medication is placed into each client's pill organizer. All
 2663 medications must be administered in compliance with orders of a
 2664 physician, physician assistant, independent advanced practice
 2665 registered nurse, or advanced practice registered nurse
 2666 ~~practitioner~~.

2667 (2) If an interdisciplinary team determines that self-
 2668 administration of medication is an appropriate objective, and if
 2669 the physician, physician assistant, independent advanced
 2670 practice registered nurse, or advanced practice registered nurse
 2671 ~~practitioner~~ does not specify otherwise, the client must be
 2672 instructed by the physician, physician assistant, independent
 2673 advanced practice registered nurse, or advanced practice
 2674 registered nurse ~~practitioner~~ to self-administer his or her

2675 medication without the assistance of a staff person. All forms
 2676 of self-administration of medication, including administration
 2677 orally, by injection, and by suppository, shall be included in
 2678 the training. The client's physician, physician assistant,
 2679 independent advanced practice registered nurse, or advanced
 2680 practice registered nurse ~~practitioner~~ must be informed of the
 2681 interdisciplinary team's decision that self-administration of
 2682 medication is an objective for the client. A client may not
 2683 self-administer medication until he or she demonstrates the
 2684 competency to take the correct medication in the correct dosage
 2685 at the correct time, to respond to missed doses, and to contact
 2686 the appropriate person with questions.

2687 (3) Medication administration discrepancies and adverse
 2688 drug reactions must be recorded and reported immediately to a
 2689 physician, physician assistant, independent advanced practice
 2690 registered nurse, or advanced practice registered nurse
 2691 ~~practitioner~~.

2692 Section 53. Subsections (2) through (5) of section
 2693 400.9979, Florida Statutes, are amended to read:

2694 400.9979 Restraint and seclusion; client safety.—

2695 (2) The use of physical restraints must be ordered and
 2696 documented by a physician, physician assistant, independent
 2697 advanced practice registered nurse, or advanced practice
 2698 registered nurse ~~practitioner~~ and must be consistent with the
 2699 policies and procedures adopted by the facility. The client or,

2700 if applicable, the client's representative shall be informed of
 2701 the facility's physical restraint policies and procedures when
 2702 the client is admitted.

2703 (3) The use of chemical restraints shall be limited to
 2704 prescribed dosages of medications as ordered by a physician,
 2705 physician assistant, independent advanced practice registered
 2706 nurse, or advanced practice registered nurse ~~practitioner~~ and
 2707 must be consistent with the client's diagnosis and the policies
 2708 and procedures adopted by the facility. The client and, if
 2709 applicable, the client's representative shall be informed of the
 2710 facility's chemical restraint policies and procedures when the
 2711 client is admitted.

2712 (4) Based on the assessment by a physician, physician
 2713 assistant, independent advanced practice registered nurse, or
 2714 advanced practice registered nurse ~~practitioner~~, if a client
 2715 exhibits symptoms that present an immediate risk of injury or
 2716 death to himself or herself or others, a physician, physician
 2717 assistant, independent advanced practice registered nurse, or
 2718 advanced practice registered nurse ~~practitioner~~ may issue an
 2719 emergency treatment order to immediately administer rapid-
 2720 response psychotropic medications or other chemical restraints.
 2721 Each emergency treatment order must be documented and maintained
 2722 in the client's record.

2723 (a) An emergency treatment order is not effective for more
 2724 than 24 hours.

2725 (b) Whenever a client is medicated under this subsection,
 2726 the client's representative or a responsible party and the
 2727 client's physician, physician assistant, independent advanced
 2728 practice registered nurse, or advanced practice registered nurse
 2729 ~~practitioner~~ shall be notified as soon as practicable.

2730 (5) A client who is prescribed and receives a medication
 2731 that can serve as a chemical restraint for a purpose other than
 2732 an emergency treatment order must be evaluated by his or her
 2733 physician, physician assistant, independent advanced practice
 2734 registered nurse, or advanced practice registered nurse
 2735 ~~practitioner~~ at least monthly to assess:

- 2736 (a) The continued need for the medication.
- 2737 (b) The level of the medication in the client's blood.
- 2738 (c) The need for adjustments to the prescription.

2739 Section 54. Subsections (1) and (2) of section 401.445,
 2740 Florida Statutes, are amended to read:

2741 401.445 Emergency examination and treatment of
 2742 incapacitated persons.—

2743 (1) ~~No Recovery is not shall be~~ allowed in any court in
 2744 this state against any emergency medical technician, paramedic,
 2745 or physician as defined in this chapter;; any advanced practice
 2746 registered nurse ~~practitioner~~ certified under s. 464.012; any
 2747 independent advanced practice registered nurse registered under
 2748 s. 464.0125;; or any physician assistant licensed under s.
 2749 458.347 or s. 459.022, or any person acting under the direct

2750 medical supervision of a physician, in an action brought for
 2751 examining or treating a patient without his or her informed
 2752 consent if:

2753 (a) The patient at the time of examination or treatment is
 2754 intoxicated, under the influence of drugs, or otherwise
 2755 incapable of providing informed consent as provided in s.
 2756 766.103;

2757 (b) The patient at the time of examination or treatment is
 2758 experiencing an emergency medical condition; and

2759 (c) The patient would reasonably, under all the
 2760 surrounding circumstances, undergo such examination, treatment,
 2761 or procedure if the patient ~~he or she~~ were advised by the
 2762 emergency medical technician, paramedic, physician, independent
 2763 advanced practice registered nurse, advanced practice registered
 2764 nurse ~~practitioner~~, or physician assistant in accordance with s.
 2765 766.103(3).

2766
 2767 Examination and treatment provided under this subsection shall
 2768 be limited to reasonable examination of the patient to determine
 2769 the medical condition of the patient and treatment reasonably
 2770 necessary to alleviate the emergency medical condition or to
 2771 stabilize the patient.

2772 (2) In examining and treating a person who is apparently
 2773 intoxicated, under the influence of drugs, or otherwise
 2774 incapable of providing informed consent, the emergency medical

2775 technician, paramedic, physician, independent advanced practice
 2776 registered nurse practitioner, advanced practice registered
 2777 nurse ~~practitioner~~, or physician assistant, or any person acting
 2778 under the direct medical supervision of a physician, shall
 2779 proceed wherever possible with the consent of the person. If the
 2780 person reasonably appears to be incapacitated and refuses his or
 2781 her consent, the person may be examined, treated, or taken to a
 2782 hospital or other appropriate treatment resource if he or she is
 2783 in need of emergency attention, without his or her consent, but
 2784 unreasonable force shall not be used.

2785 Section 55. Subsections (1) and (11) of section 409.905,
 2786 Florida Statutes, are amended to read:

2787 409.905 Mandatory Medicaid services.—The agency may make
 2788 payments for the following services, which are required of the
 2789 state by Title XIX of the Social Security Act, furnished by
 2790 Medicaid providers to recipients who are determined to be
 2791 eligible on the dates on which the services were provided. Any
 2792 service under this section shall be provided only when medically
 2793 necessary and in accordance with state and federal law.

2794 Mandatory services rendered by providers in mobile units to
 2795 Medicaid recipients may be restricted by the agency. Nothing in
 2796 this section shall be construed to prevent or limit the agency
 2797 from adjusting fees, reimbursement rates, lengths of stay,
 2798 number of visits, number of services, or any other adjustments
 2799 necessary to comply with the availability of moneys and any

2800 limitations or directions provided for in the General
 2801 Appropriations Act or chapter 216.

2802 (1) INDEPENDENT ADVANCED PRACTICE REGISTERED NURSE AND
 2803 ADVANCED PRACTICE REGISTERED NURSE ~~PRACTITIONER~~ SERVICES.—The
 2804 agency shall pay for services provided to a recipient by a
 2805 registered independent advanced practice registered nurse, a
 2806 certified licensed ~~advanced practice~~ registered nurse
 2807 ~~practitioner~~ who has a valid collaboration agreement with a
 2808 licensed physician on file with the Department of Health, or a
 2809 certified registered nurse anesthetist who provides anesthesia
 2810 services in accordance with established protocol required by
 2811 state law and approved by the medical staff of the facility in
 2812 which the anesthetic service is performed. Reimbursement for
 2813 such services must be provided in an amount that equals at least
 2814 ~~not less than~~ 80 percent of the reimbursement to a physician who
 2815 provides the same services, unless otherwise provided for in the
 2816 General Appropriations Act.

2817 (11) RURAL HEALTH CLINIC SERVICES.—The agency shall pay
 2818 for outpatient primary health care services for a recipient
 2819 provided by a clinic certified by and participating in the
 2820 Medicare program which is located in a federally designated,
 2821 rural, medically underserved area and has on its staff one or
 2822 more certified licensed ~~primary care~~ nurse practitioners or
 2823 physician assistants, ~~7~~ and a licensed staff supervising
 2824 physician, ~~or~~ a consulting supervising physician, or an

2825 independent advanced practice registered nurse.

2826 Section 56. Paragraph (a) of subsection (3) and subsection
2827 (8) of section 409.908, Florida Statutes, is amended to read:

2828 409.908 Reimbursement of Medicaid providers.—Subject to
2829 specific appropriations, the agency shall reimburse Medicaid
2830 providers, in accordance with state and federal law, according
2831 to methodologies set forth in the rules of the agency and in
2832 policy manuals and handbooks incorporated by reference therein.
2833 These methodologies may include fee schedules, reimbursement
2834 methods based on cost reporting, negotiated fees, competitive
2835 bidding pursuant to s. 287.057, and other mechanisms the agency
2836 considers efficient and effective for purchasing services or
2837 goods on behalf of recipients. If a provider is reimbursed based
2838 on cost reporting and submits a cost report late and that cost
2839 report would have been used to set a lower reimbursement rate
2840 for a rate semester, then the provider's rate for that semester
2841 shall be retroactively calculated using the new cost report, and
2842 full payment at the recalculated rate shall be effected
2843 retroactively. Medicare-granted extensions for filing cost
2844 reports, if applicable, shall also apply to Medicaid cost
2845 reports. Payment for Medicaid compensable services made on
2846 behalf of Medicaid eligible persons is subject to the
2847 availability of moneys and any limitations or directions
2848 provided for in the General Appropriations Act or chapter 216.
2849 Further, nothing in this section shall be construed to prevent

2850 or limit the agency from adjusting fees, reimbursement rates,
 2851 lengths of stay, number of visits, or number of services, or
 2852 making any other adjustments necessary to comply with the
 2853 availability of moneys and any limitations or directions
 2854 provided for in the General Appropriations Act, provided the
 2855 adjustment is consistent with legislative intent.

2856 (3) Subject to any limitations or directions provided for
 2857 in the General Appropriations Act, the following Medicaid
 2858 services and goods may be reimbursed on a fee-for-service basis.
 2859 For each allowable service or goods furnished in accordance with
 2860 Medicaid rules, policy manuals, handbooks, and state and federal
 2861 law, the payment shall be the amount billed by the provider, the
 2862 provider's usual and customary charge, or the maximum allowable
 2863 fee established by the agency, whichever amount is less, with
 2864 the exception of those services or goods for which the agency
 2865 makes payment using a methodology based on capitation rates,
 2866 average costs, or negotiated fees.

2867 (a) Independent advanced practice registered nurse or
 2868 advanced practice registered nurse ~~practitioner~~ services.

2869 (8) A provider of family planning services shall be
 2870 reimbursed the lesser of the amount billed by the provider or an
 2871 all-inclusive amount per type of visit for physicians,
 2872 independent advanced practice registered nurses, and advanced
 2873 practice registered nurses ~~nurse practitioners~~, as established
 2874 by the agency in a fee schedule.

2875 Section 57. Subsection (2) of section 409.9081, Florida
 2876 Statutes, is amended to read:

2877 409.9081 Copayments.—

2878 (2) The agency shall, subject to federal regulations and
 2879 any directions or limitations provided for in the General
 2880 Appropriations Act, require copayments for the following
 2881 additional services: hospital inpatient, laboratory and X-ray
 2882 services, transportation services, home health care services,
 2883 community mental health services, rural health services,
 2884 federally qualified health clinic services, and independent
 2885 advanced practice registered nurse or advanced practice
 2886 registered nurse ~~practitioner~~ services. The agency may only
 2887 establish copayments for prescribed drugs or for any other
 2888 federally authorized service if such copayment is specifically
 2889 provided for in the General Appropriations Act or other law.

2890 Section 58. Paragraph (a) of subsection (1) of section
 2891 409.973, Florida Statutes, is amended to read:

2892 409.973 Benefits.—

2893 (1) MINIMUM BENEFITS.—Managed care plans shall cover, at a
 2894 minimum, the following services:

2895 (a) Independent advanced practice registered nurse and
 2896 advanced practice registered nurse ~~practitioner~~ services.

2897 Section 59. Subsections (2), (4), and (5) of section
 2898 429.26, Florida Statutes, are amended to read:

2899 429.26 Appropriateness of placements; examinations of

2900 residents.-

2901 (2) A physician, a physician assistant, an independent
 2902 advanced practice registered nurse, or an advanced practice
 2903 registered nurse practitioner who is employed by an assisted
 2904 living facility to provide an initial examination for admission
 2905 purposes may not have financial interest in the facility.

2906 (4) If possible, each resident shall have been examined by
 2907 a licensed physician, a licensed physician assistant, a
 2908 registered independent advanced practice registered nurse, or a
 2909 certified advanced practice registered licensed nurse
 2910 ~~practitioner~~ within 60 days before admission to the facility.

2911 The signed and completed medical examination report shall be
 2912 submitted to the owner or administrator of the facility who
 2913 shall use the information contained therein to assist in the
 2914 determination of the appropriateness of the resident's admission
 2915 and continued stay in the facility. The medical examination
 2916 report shall become a permanent part of the record of the
 2917 resident at the facility and shall be made available to the
 2918 agency during inspection or upon request. An assessment that has
 2919 been completed through the Comprehensive Assessment and Review
 2920 for Long-Term Care Services (CARES) Program fulfills the
 2921 requirements for a medical examination under this subsection and
 2922 s. 429.07(3)(b)6.

2923 (5) Except as provided in s. 429.07, if a medical
 2924 examination has not been completed within 60 days before the

2925 admission of the resident to the facility, a licensed physician,
 2926 licensed physician assistant, registered independent advanced
 2927 practice registered nurse, or certified advanced practice
 2928 ~~licensed nurse practitioner~~ shall examine the resident and
 2929 complete a medical examination form provided by the agency
 2930 within 30 days following the admission to the facility to enable
 2931 the facility owner or administrator to determine the
 2932 appropriateness of the admission. The medical examination form
 2933 shall become a permanent part of the record of the resident at
 2934 the facility and shall be made available to the agency during
 2935 inspection by the agency or upon request.

2936 Section 60. Paragraph (a) of subsection (2) and paragraph
 2937 (a) of subsection (7) of section 429.918, Florida Statutes, are
 2938 amended to read:

2939 429.918 Licensure designation as a specialized Alzheimer's
 2940 services adult day care center.—

2941 (2) As used in this section, the term:

2942 (a) "ADRD participant" means a participant who has a
 2943 documented diagnosis of Alzheimer's disease or a dementia-
 2944 related disorder (ADRD) from a licensed physician, licensed
 2945 physician assistant, registered independent advanced practice
 2946 registered nurse, or certified ~~a licensed~~ advanced practice
 2947 registered nurse practitioner.

2948 (7)(a) An ADRD participant admitted to an adult day care
 2949 center having a license designated under this section, or the

2950 caregiver when applicable, must:

2951 1. Require ongoing supervision to maintain the highest
 2952 level of medical or custodial functioning and have a
 2953 demonstrated need for a responsible party to oversee his or her
 2954 care.

2955 2. Not actively demonstrate aggressive behavior that
 2956 places himself, herself, or others at risk of harm.

2957 3. Provide the following medical documentation signed by a
 2958 licensed physician, licensed physician assistant, registered
 2959 independent advanced practice registered nurse, or certified a
 2960 ~~licensed~~ advanced practice registered nurse ~~practitioner~~:

2961 a. Any physical, health, or emotional conditions that
 2962 require medical care.

2963 b. A listing of the ADRD participant's current prescribed
 2964 and over-the-counter medications and dosages, diet restrictions,
 2965 mobility restrictions, and other physical limitations.

2966 4. Provide documentation signed by a health care provider
 2967 licensed in this state which indicates that the ADRD participant
 2968 is free of the communicable form of tuberculosis and free of
 2969 signs and symptoms of other communicable diseases.

2970 Section 61. Paragraph (e) of subsection (5) of section
 2971 440.102, Florida Statutes, is amended to read:

2972 440.102 Drug-free workplace program requirements.—The
 2973 following provisions apply to a drug-free workplace program
 2974 implemented pursuant to law or to rules adopted by the Agency

2975 for Health Care Administration:

2976 (5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
 2977 collection and testing for drugs under this section shall be
 2978 performed in accordance with the following procedures:

2979 (e) A specimen for a drug test may be taken or collected
 2980 by any of the following persons:

2981 1. A physician, a physician assistant, an independent
 2982 advanced practice registered nurse, an advanced practice
 2983 registered nurse, a registered ~~professional~~ nurse, a licensed
 2984 practical nurse, ~~or a nurse practitioner~~ or a certified
 2985 paramedic who is present at the scene of an accident for the
 2986 purpose of rendering emergency medical service or treatment.

2987 2. A qualified person employed by a licensed or certified
 2988 laboratory as described in subsection (9).

2989 Section 62. Subsection (2) and paragraph (d) of subsection
 2990 (4) of section 456.0391, Florida Statutes, are amended to read:

2991 456.0391 Advanced practice registered nurses ~~nurse~~
 2992 ~~practitioners~~; information required for certification.—

2993 (2) The Department of Health shall send a notice to each
 2994 person certified under s. 464.012 at the certificateholder's
 2995 last known address of record regarding the requirements for
 2996 information to be submitted by advanced practice registered
 2997 nurses ~~nurse practitioners~~ pursuant to this section in
 2998 conjunction with the renewal of such certificate.

2999 (4)

3000 (d) Any applicant for initial certification or renewal of
 3001 certification as an advanced practice registered nurse
 3002 ~~practitioner~~ who submits to the Department of Health a set of
 3003 fingerprints and information required for the criminal history
 3004 check required under this section shall not be required to
 3005 provide a subsequent set of fingerprints or other duplicate
 3006 information required for a criminal history check to the Agency
 3007 for Health Care Administration, the Department of Juvenile
 3008 Justice, or the Department of Children and Families for
 3009 employment or licensure with such agency or department, if the
 3010 applicant has undergone a criminal history check as a condition
 3011 of initial certification or renewal of certification as an
 3012 advanced practice registered nurse ~~practitioner~~ with the
 3013 Department of Health, notwithstanding any other provision of law
 3014 to the contrary. In lieu of such duplicate submission, the
 3015 Agency for Health Care Administration, the Department of
 3016 Juvenile Justice, and the Department of Children and Families
 3017 shall obtain criminal history information for employment or
 3018 licensure of persons certified under s. 464.012 by such agency
 3019 or department from the Department of Health's health care
 3020 practitioner credentialing system.

3021 Section 63. Subsection (2) of section 456.0392, Florida
 3022 Statutes, is amended to read:

3023 456.0392 Prescription labeling.—

3024 (2) A prescription for a drug ~~that is not listed as a~~

3025 ~~controlled substance in chapter 893 which is~~ written by an
 3026 advanced practice registered nurse ~~practitioner~~ certified under
 3027 s. 464.012 is presumed, subject to rebuttal, to be valid and
 3028 within the parameters of the prescriptive authority delegated by
 3029 a practitioner licensed under chapter 458, chapter 459, or
 3030 chapter 466.

3031 Section 64. Paragraph (a) of subsection (1) and subsection
 3032 (6) of section 456.041, Florida Statutes, are amended to read:

3033 456.041 Practitioner profile; creation.—

3034 (1)(a) The Department of Health shall compile the
 3035 information submitted pursuant to s. 456.039 into a practitioner
 3036 profile of the applicant submitting the information, except that
 3037 the Department of Health shall develop a format to compile
 3038 uniformly any information submitted under s. 456.039(4)(b).
 3039 Beginning July 1, 2001, the Department of Health may compile the
 3040 information submitted pursuant to s. 456.0391 into a
 3041 practitioner profile of the applicant submitting the
 3042 information. The protocol submitted pursuant to s. 464.012(3)
 3043 must be included in the practitioner profile of the advanced
 3044 practice registered nurse ~~practitioner~~.

3045 (6) The Department of Health shall provide in each
 3046 practitioner profile for every physician or advanced practice
 3047 registered nurse ~~practitioner~~ terminated for cause from
 3048 participating in the Medicaid program, pursuant to s. 409.913,
 3049 or sanctioned by the Medicaid program a statement that the

3050 practitioner has been terminated from participating in the
 3051 Florida Medicaid program or sanctioned by the Medicaid program.

3052 Section 65. Subsection (1) and paragraphs (a), (d), and
 3053 (e) of subsection (2) of section 456.048, Florida Statutes, are
 3054 amended to read:

3055 456.048 Financial responsibility requirements for certain
 3056 health care practitioners.-

3057 (1) As a prerequisite for licensure or license renewal,
 3058 the Board of Acupuncture, the Board of Chiropractic Medicine,
 3059 the Board of Podiatric Medicine, and the Board of Dentistry
 3060 shall, by rule, require that all health care practitioners
 3061 licensed under the respective board, and the Board of Medicine
 3062 and the Board of Osteopathic Medicine shall, by rule, require
 3063 that all anesthesiologist assistants licensed pursuant to s.
 3064 458.3475 or s. 459.023, and the Board of Nursing shall, by rule,
 3065 require that independent advanced practice registered nurses
 3066 registered under s. 464.0125 and advanced practice registered
 3067 nurses ~~nurse practitioners~~ certified under s. 464.012, and the
 3068 department shall, by rule, require that midwives maintain
 3069 medical malpractice insurance or provide proof of financial
 3070 responsibility in an amount and in a manner determined by the
 3071 board or department to be sufficient to cover claims arising out
 3072 of the rendering of or failure to render professional care and
 3073 services in this state.

3074 (2) The board or department may grant exemptions upon

3075 application by practitioners meeting any of the following
 3076 criteria:

3077 (a) Any person licensed, certified, or registered under
 3078 chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461,
 3079 s. 464.012, s. 464.0125, chapter 466, or chapter 467 who
 3080 practices exclusively as an officer, employee, or agent of the
 3081 Federal Government or of the state or its agencies or its
 3082 subdivisions. For the purposes of this subsection, an agent of
 3083 the state, its agencies, or its subdivisions is a person who is
 3084 eligible for coverage under any self-insurance or insurance
 3085 program authorized by the provisions of s. 768.28(16) or who is
 3086 a volunteer under s. 110.501(1).

3087 (d) Any person licensed, ~~or~~ certified, or registered under
 3088 chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461,
 3089 s. 464.012, s. 464.0125, chapter 466, or chapter 467 who
 3090 practices only in conjunction with his or her teaching duties at
 3091 an accredited school or in its main teaching hospitals. Such
 3092 person may engage in the practice of medicine to the extent that
 3093 such practice is incidental to and a necessary part of duties in
 3094 connection with the teaching position in the school.

3095 (e) Any person holding an active license, ~~or~~
 3096 certification, or registration under chapter 457, s. 458.3475,
 3097 s. 459.023, chapter 460, chapter 461, s. 464.012, s. 464.0125,
 3098 chapter 466, or chapter 467 who is not practicing in this state.
 3099 If such person initiates or resumes practice in this state, he

3100 or she must notify the department of such activity.

3101 Section 66. Paragraphs (a), (i), (o), and (r) of
 3102 subsection (3) and paragraph (g) of subsection (5) of section
 3103 456.053, Florida Statutes, are amended to read:

3104 456.053 Financial arrangements between referring health
 3105 care providers and providers of health care services.—

3106 (3) DEFINITIONS.—For the purpose of this section, the
 3107 word, phrase, or term:

3108 (a) "Board" means any of the following boards relating to
 3109 the respective professions: the Board of Medicine as created in
 3110 s. 458.307; the Board of Osteopathic Medicine as created in s.
 3111 459.004; the Board of Chiropractic Medicine as created in s.
 3112 460.404; the Board of Podiatric Medicine as created in s.
 3113 461.004; the Board of Optometry as created in s. 463.003; the
 3114 Board of Nursing as created in s. 464.004; the Board of Pharmacy
 3115 as created in s. 465.004; and the Board of Dentistry as created
 3116 in s. 466.004.

3117 (i) "Health care provider" means a ~~any~~ physician licensed
 3118 under chapter 458, chapter 459, chapter 460, or chapter 461; an
 3119 independent advanced practice registered nurse registered under
 3120 s. 464.0125; or ~~a, or any~~ health care provider licensed under
 3121 chapter 463 or chapter 466.

3122 (o) "Referral" means any referral of a patient by a health
 3123 care provider for health care services, including, without
 3124 limitation:

3125 1. The forwarding of a patient by a health care provider
 3126 to another health care provider or to an entity which provides
 3127 or supplies designated health services or any other health care
 3128 item or service; or

3129 2. The request or establishment of a plan of care by a
 3130 health care provider, which includes the provision of designated
 3131 health services or other health care item or service.

3132 3. The following orders, recommendations, or plans of care
 3133 shall not constitute a referral by a health care provider:

3134 a. By a radiologist for diagnostic-imaging services.

3135 b. By a physician specializing in the provision of
 3136 radiation therapy services for such services.

3137 c. By a medical oncologist for drugs and solutions to be
 3138 prepared and administered intravenously to such oncologist's
 3139 patient, as well as for the supplies and equipment used in
 3140 connection therewith to treat such patient for cancer and the
 3141 complications thereof.

3142 d. By a cardiologist for cardiac catheterization services.

3143 e. By a pathologist for diagnostic clinical laboratory
 3144 tests and pathological examination services, if furnished by or
 3145 under the supervision of such pathologist pursuant to a
 3146 consultation requested by another physician.

3147 f. By a health care provider who is the sole provider or
 3148 member of a group practice for designated health services or
 3149 other health care items or services that are prescribed or

3150 provided solely for such referring health care provider's or
 3151 group practice's own patients, and that are provided or
 3152 performed by or under the direct supervision of such referring
 3153 health care provider or group practice; provided, however, ~~that~~
 3154 ~~effective July 1, 1999,~~ a physician licensed pursuant to chapter
 3155 458, chapter 459, chapter 460, or chapter 461 or an independent
 3156 advanced practice registered nurse registered under s. 464.0125
 3157 may refer a patient to a sole provider or group practice for
 3158 diagnostic imaging services, excluding radiation therapy
 3159 services, for which the sole provider or group practice billed
 3160 both the technical and the professional fee for or on behalf of
 3161 the patient, if the referring physician or independent advanced
 3162 practice registered nurse has no investment interest in the
 3163 practice. The diagnostic imaging service referred to a group
 3164 practice or sole provider must be a diagnostic imaging service
 3165 normally provided within the scope of practice to the patients
 3166 of the group practice or sole provider. The group practice or
 3167 sole provider may accept no more than 15 percent of their
 3168 patients receiving diagnostic imaging services from outside
 3169 referrals, excluding radiation therapy services.

3170 g. By a health care provider for services provided by an
 3171 ambulatory surgical center licensed under chapter 395.

3172 h. By a urologist for lithotripsy services.

3173 i. By a dentist for dental services performed by an
 3174 employee of or health care provider who is an independent

3175 contractor with the dentist or group practice of which the
3176 dentist is a member.

3177 j. By a physician for infusion therapy services to a
3178 patient of that physician or a member of that physician's group
3179 practice.

3180 k. By a nephrologist for renal dialysis services and
3181 supplies, except laboratory services.

3182 l. By a health care provider whose principal professional
3183 practice consists of treating patients in their private
3184 residences for services to be rendered in such private
3185 residences, except for services rendered by a home health agency
3186 licensed under chapter 400. For purposes of this sub-
3187 subparagraph, the term "private residences" includes patients'
3188 private homes, independent living centers, and assisted living
3189 facilities, but does not include skilled nursing facilities.

3190 m. By a health care provider for sleep-related testing.

3191 (r) "Sole provider" means one health care provider
3192 licensed under chapter 458, chapter 459, chapter 460, ~~or~~ chapter
3193 461, or s. 464.0125, who maintains a separate medical office and
3194 a medical practice separate from any other health care provider
3195 and who bills for his or her services separately from the
3196 services provided by any other health care provider. A sole
3197 provider shall not share overhead expenses or professional
3198 income with any other person or group practice.

3199 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as

3200 provided in this section:

3201 (g) A violation of this section by a health care provider
 3202 shall constitute grounds for disciplinary action to be taken by
 3203 the applicable board pursuant to s. 458.331(2), s. 459.015(2),
 3204 s. 460.413(2), s. 461.013(2), s. 463.016(2), s. 464.018, or s.
 3205 466.028(2). Any hospital licensed under chapter 395 found in
 3206 violation of this section shall be subject to s. 395.0185(2).

3207 Section 67. Subsection (7) of section 456.072, Florida
 3208 Statutes, is amended to read:

3209 456.072 Grounds for discipline; penalties; enforcement.-

3210 (7) Notwithstanding subsection (2), upon a finding that a
 3211 physician has prescribed or dispensed a controlled substance, or
 3212 caused a controlled substance to be prescribed or dispensed, in
 3213 a manner that violates the standard of practice set forth in s.
 3214 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)
 3215 or (s), or s. 466.028(1)(p) or (x), or that an independent
 3216 advanced practice registered nurse or an advanced practice
 3217 registered nurse practitioner has prescribed or dispensed a
 3218 controlled substance, or caused a controlled substance to be
 3219 prescribed or dispensed, in a manner that violates the standard
 3220 of practice set forth in s. 464.018(1)(n) or (p)6., the
 3221 ~~physician or advanced registered nurse practitioner~~ shall be
 3222 suspended for a period of at least ~~not less than~~ 6 months and
 3223 pay a fine of at least ~~not less than~~ \$10,000 per count. Repeated
 3224 violations shall result in increased penalties.

3225 Section 68. Subsection (2) of section 456.44, Florida
 3226 Statutes, is amended to read:

3227 456.44 Controlled substance prescribing.—

3228 (2) REGISTRATION.—A physician licensed under chapter 458,
 3229 chapter 459, chapter 461, or chapter 466;~~7~~ a physician assistant
 3230 licensed under chapter 458 or chapter 459;~~7~~ or an independent
 3231 advanced practice registered nurse registered or an advanced
 3232 practice registered nurse practitioner certified under part I of
 3233 chapter 464 who prescribes any controlled substance, listed in
 3234 Schedule II, Schedule III, or Schedule IV as defined in s.

3235 893.03, for the treatment of chronic nonmalignant pain, must:

3236 (a) Designate himself or herself as a controlled substance
 3237 prescribing practitioner on the ~~his or her~~ practitioner profile.

3238 (b) Comply with the requirements of this section and
 3239 applicable board rules.

3240 Section 69. Paragraph (c) of subsection (2) of section
 3241 458.3265, Florida Statutes, is amended to read:

3242 458.3265 Pain-management clinics.—

3243 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 3244 apply to any physician who provides professional services in a
 3245 pain-management clinic that is required to be registered in
 3246 subsection (1).

3247 (c) A physician, a physician assistant, an independent
 3248 advanced practice registered nurse, or an advanced practice
 3249 registered nurse ~~practitioner~~ must perform a physical

3250 examination of a patient on the same day that the physician
 3251 prescribes a controlled substance to a patient at a pain-
 3252 management clinic. If the physician prescribes more than a 72-
 3253 hour dose of controlled substances for the treatment of chronic
 3254 nonmalignant pain, the physician must document in the patient's
 3255 record the reason for prescribing that quantity.

3256 Section 70. Paragraph (dd) of subsection (1) of section
 3257 458.331, Florida Statutes, is amended to read:

3258 458.331 Grounds for disciplinary action; action by the
 3259 board and department.—

3260 (1) The following acts constitute grounds for denial of a
 3261 license or disciplinary action, as specified in s. 456.072(2):

3262 (dd) Failing to supervise adequately the activities of
 3263 those physician assistants, paramedics, emergency medical
 3264 technicians, advanced practice registered nurses ~~nurse~~
 3265 ~~practitioners~~, or anesthesiologist assistants acting under the
 3266 supervision of the physician.

3267 Section 71. Paragraph (a) of subsection (1) and
 3268 subsections (2) and (4) of section 458.348, Florida Statutes,
 3269 are amended to read:

3270 458.348 Formal supervisory relationships, standing orders,
 3271 and established protocols; notice; standards.—

3272 (1) NOTICE.—

3273 (a) When a physician enters into a formal supervisory
 3274 relationship or standing orders with an emergency medical

3275 technician or paramedic licensed pursuant to s. 401.27, which
 3276 relationship or orders contemplate the performance of medical
 3277 acts, or when a physician enters into an established protocol
 3278 with an advanced practice registered nurse ~~practitioner~~, which
 3279 protocol contemplates the performance of medical acts set forth
 3280 in s. 464.012(3) and (4), the physician shall submit notice to
 3281 the board. The notice shall contain a statement in substantially
 3282 the following form:

3283 I, ...(name and professional license number of
 3284 physician)..., of ...(address of physician)... have hereby
 3285 entered into a formal supervisory relationship, standing orders,
 3286 or an established protocol with ...(number of persons)...
 3287 emergency medical technician(s), ...(number of persons)...
 3288 paramedic(s), or ...(number of persons)... advanced practice
 3289 registered nurse(s) ~~nurse practitioner(s)~~.

3290 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The
 3291 joint committee shall determine minimum standards for the
 3292 content of established protocols pursuant to which an advanced
 3293 practice registered nurse ~~practitioner~~ may perform medical acts
 3294 or acts set forth in s. 464.012(3) and (4) and shall determine
 3295 minimum standards for supervision of such acts by the physician,
 3296 unless the joint committee determines that any act set forth in
 3297 s. 464.012(3) or (4) is not a medical act. Such standards shall
 3298 be based on risk to the patient and acceptable standards of
 3299 medical care and shall take into account the special problems of

3300 medically underserved areas. The standards developed by the
 3301 joint committee shall be adopted as rules by the Board of
 3302 Nursing and the Board of Medicine for purposes of carrying out
 3303 their responsibilities pursuant to part I of chapter 464 and
 3304 this chapter, respectively, but neither board shall have
 3305 disciplinary powers over the licensees of the other board.

3306 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

3307 A physician who supervises an advanced practice registered nurse
 3308 ~~practitioner~~ or physician assistant at a medical office other
 3309 than the physician's primary practice location, where the
 3310 advanced practice registered nurse ~~practitioner~~ or physician
 3311 assistant is not under the onsite supervision of a supervising
 3312 physician, must comply with the standards set forth in this
 3313 subsection. For the purpose of this subsection, a physician's
 3314 "primary practice location" means the address reflected on the
 3315 physician's profile published pursuant to s. 456.041.

3316 (a) A physician who is engaged in providing primary health
 3317 care services may not supervise more than four offices in
 3318 addition to the physician's primary practice location. For the
 3319 purpose of this subsection, "primary health care" means health
 3320 care services that are commonly provided to patients without
 3321 referral from another practitioner, including obstetrical and
 3322 gynecological services, and excludes practices providing
 3323 primarily dermatologic and skin care services, which include
 3324 aesthetic skin care services.

3325 (b) A physician who is engaged in providing specialty
 3326 health care services may not supervise more than two offices in
 3327 addition to the physician's primary practice location. For the
 3328 purpose of this subsection, "specialty health care" means health
 3329 care services that are commonly provided to patients with a
 3330 referral from another practitioner and excludes practices
 3331 providing primarily dermatologic and skin care services, which
 3332 include aesthetic skin care services.

3333 (c) A physician who supervises an advanced practice
 3334 registered nurse ~~practitioner~~ or physician assistant at a
 3335 medical office other than the physician's primary practice
 3336 location, where the advanced practice registered nurse
 3337 ~~practitioner~~ or physician assistant is not under the onsite
 3338 supervision of a supervising physician and the services offered
 3339 at the office are primarily dermatologic or skin care services,
 3340 which include aesthetic skin care services other than plastic
 3341 surgery, must comply with the standards listed in subparagraphs
 3342 1.-4. Notwithstanding s. 458.347(4)(e)6., a physician
 3343 supervising a physician assistant pursuant to this paragraph may
 3344 not be required to review and cosign charts or medical records
 3345 prepared by such physician assistant.

3346 1. The physician shall submit to the board the addresses
 3347 of all offices where he or she is supervising an advanced
 3348 practice registered nurse ~~practitioner~~ or a physician
 3349 ~~physician's~~ assistant which are not the physician's primary

3350 practice location.

3351 2. The physician must be board certified or board eligible
3352 in dermatology or plastic surgery as recognized by the board
3353 pursuant to s. 458.3312.

3354 3. All such offices that are not the physician's primary
3355 place of practice must be within 25 miles of the physician's
3356 primary place of practice or in a county that is contiguous to
3357 the county of the physician's primary place of practice.
3358 However, the distance between any of the offices may not exceed
3359 75 miles.

3360 4. The physician may supervise only one office other than
3361 the physician's primary place of practice ~~except that until July~~
3362 ~~1, 2011, the physician may supervise up to two medical offices~~
3363 ~~other than the physician's primary place of practice if the~~
3364 ~~addresses of the offices are submitted to the board before July~~
3365 ~~1, 2006. Effective July 1, 2011, the physician may supervise~~
3366 ~~only one office other than the physician's primary place of~~
3367 ~~practice, regardless of when the addresses of the offices were~~
3368 ~~submitted to the board.~~

3369 (d) A physician who supervises an office in addition to
3370 the physician's primary practice location must conspicuously
3371 post in each of the physician's offices a current schedule of
3372 the regular hours when the physician is present in that office
3373 and the hours when the office is open while the physician is not
3374 present.

3375 (e) This subsection does not apply to health care services
 3376 provided in facilities licensed under chapter 395 or in
 3377 conjunction with a college of medicine, a college of nursing, an
 3378 accredited graduate medical program, or a nursing education
 3379 program; not-for-profit, family-planning clinics that are not
 3380 licensed pursuant to chapter 390; rural and federally qualified
 3381 health centers; health care services provided in a nursing home
 3382 licensed under part II of chapter 400, an assisted living
 3383 facility licensed under part I of chapter 429, a continuing care
 3384 facility licensed under chapter 651, or a retirement community
 3385 consisting of independent living units and a licensed nursing
 3386 home or assisted living facility; anesthesia services provided
 3387 in accordance with law; health care services provided in a
 3388 designated rural health clinic; health care services provided to
 3389 persons enrolled in a program designed to maintain elderly
 3390 persons and persons with disabilities in a home or community-
 3391 based setting; university primary care student health centers;
 3392 school health clinics; or health care services provided in
 3393 federal, state, or local government facilities. Subsection (3)
 3394 and this subsection do not apply to offices at which the
 3395 exclusive service being performed is laser hair removal by an
 3396 advanced practice registered nurse ~~practitioner~~ or physician
 3397 assistant.

3398 Section 72. Paragraph (c) of subsection (2) of section
 3399 459.0137, Florida Statutes, is amended to read:

3400 459.0137 Pain-management clinics.—

3401 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 3402 apply to any osteopathic physician who provides professional
 3403 services in a pain-management clinic that is required to be
 3404 registered in subsection (1).

3405 (c) An osteopathic physician, a physician assistant, or an
 3406 independent advanced practice registered nurse, or an advanced
 3407 practice registered nurse ~~practitioner~~ must perform a physical
 3408 examination of a patient on the same day that the physician
 3409 prescribes a controlled substance to a patient at a pain-
 3410 management clinic. If the osteopathic physician prescribes more
 3411 than a 72-hour dose of controlled substances for the treatment
 3412 of chronic nonmalignant pain, the osteopathic physician must
 3413 document in the patient's record the reason for prescribing that
 3414 quantity.

3415 Section 73. Paragraph (hh) of subsection (1) of section
 3416 459.015, Florida Statutes, is amended to read:

3417 459.015 Grounds for disciplinary action; action by the
 3418 board and department.—

3419 (1) The following acts constitute grounds for denial of a
 3420 license or disciplinary action, as specified in s. 456.072(2):

3421 (hh) Failing to supervise adequately the activities of
 3422 those physician assistants, paramedics, emergency medical
 3423 technicians, advanced practice registered nurses ~~nurse~~
 3424 ~~practitioners~~, anesthesiologist assistants, or other persons

3425 acting under the supervision of the osteopathic physician.

3426 Section 74. Paragraph (a) of subsection (1) and subsection
3427 (3) of section 459.025, Florida Statutes, are amended to read:

3428 459.025 Formal supervisory relationships, standing orders,
3429 and established protocols; notice; standards.—

3430 (1) NOTICE.—

3431 (a) When an osteopathic physician enters into a formal
3432 supervisory relationship or standing orders with an emergency
3433 medical technician or paramedic licensed pursuant to s. 401.27,
3434 which relationship or orders contemplate the performance of
3435 medical acts, or when an osteopathic physician enters into an
3436 established protocol with an advanced practice registered nurse
3437 ~~practitioner~~, which protocol contemplates the performance of
3438 medical acts or acts set forth in s. 464.012(3) and (4), the
3439 osteopathic physician shall submit notice to the board. The
3440 notice must contain a statement in substantially the following
3441 form:

3442 I, ...(name and professional license number of osteopathic
3443 physician)..., of ...(address of osteopathic physician)... have
3444 hereby entered into a formal supervisory relationship, standing
3445 orders, or an established protocol with ...(number of
3446 persons)... emergency medical technician(s), ...(number of
3447 persons)... paramedic(s), or ...(number of persons)... advanced
3448 practice registered nurse(s) ~~nurse practitioner(s)~~.

3449 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

3450 An osteopathic physician who supervises an advanced practice
 3451 registered nurse ~~practitioner~~ or physician assistant at a
 3452 medical office other than the osteopathic physician's primary
 3453 practice location, where the advanced practice registered nurse
 3454 ~~practitioner~~ or physician assistant is not under the onsite
 3455 supervision of a supervising osteopathic physician, must comply
 3456 with the standards set forth in this subsection. For the purpose
 3457 of this subsection, an osteopathic physician's "primary practice
 3458 location" means the address reflected on the physician's profile
 3459 published pursuant to s. 456.041.

3460 (a) An osteopathic physician who is engaged in providing
 3461 primary health care services may not supervise more than four
 3462 offices in addition to the osteopathic physician's primary
 3463 practice location. For the purpose of this subsection, "primary
 3464 health care" means health care services that are commonly
 3465 provided to patients without referral from another practitioner,
 3466 including obstetrical and gynecological services, and excludes
 3467 practices providing primarily dermatologic and skin care
 3468 services, which include aesthetic skin care services.

3469 (b) An osteopathic physician who is engaged in providing
 3470 specialty health care services may not supervise more than two
 3471 offices in addition to the osteopathic physician's primary
 3472 practice location. For the purpose of this subsection,
 3473 "specialty health care" means health care services that are
 3474 commonly provided to patients with a referral from another

3475 practitioner and excludes practices providing primarily
 3476 dermatologic and skin care services, which include aesthetic
 3477 skin care services.

3478 (c) An osteopathic physician who supervises an advanced
 3479 practice registered nurse ~~practitioner~~ or physician assistant at
 3480 a medical office other than the osteopathic physician's primary
 3481 practice location, where the advanced practice registered nurse
 3482 ~~practitioner~~ or physician assistant is not under the onsite
 3483 supervision of a supervising osteopathic physician and the
 3484 services offered at the office are primarily dermatologic or
 3485 skin care services, which include aesthetic skin care services
 3486 other than plastic surgery, must comply with the standards
 3487 listed in subparagraphs 1.-4. Notwithstanding s.

3488 459.022(4)(e)6., an osteopathic physician supervising a
 3489 physician assistant pursuant to this paragraph may not be
 3490 required to review and cosign charts or medical records prepared
 3491 by such physician assistant.

3492 1. The osteopathic physician shall submit to the Board of
 3493 Osteopathic Medicine the addresses of all offices where the
 3494 osteopathic physician ~~he or she~~ is supervising or has a protocol
 3495 with an advanced practice registered nurse ~~practitioner~~ or a
 3496 physician ~~physician's~~ assistant which are not the osteopathic
 3497 physician's primary practice location.

3498 2. The osteopathic physician must be board certified or
 3499 board eligible in dermatology or plastic surgery as recognized

3500 by the Board of Osteopathic Medicine pursuant to s. 459.0152.

3501 3. All such offices that are not the osteopathic
 3502 physician's primary place of practice must be within 25 miles of
 3503 the osteopathic physician's primary place of practice or in a
 3504 county that is contiguous to the county of the osteopathic
 3505 physician's primary place of practice. However, the distance
 3506 between any of the offices may not exceed 75 miles.

3507 4. The osteopathic physician may supervise only one office
 3508 other than the osteopathic physician's primary place of practice
 3509 ~~except that until July 1, 2011, the osteopathic physician may~~
 3510 ~~supervise up to two medical offices other than the osteopathic~~
 3511 ~~physician's primary place of practice if the addresses of the~~
 3512 ~~offices are submitted to the Board of Osteopathic Medicine~~
 3513 ~~before July 1, 2006. Effective July 1, 2011, the osteopathic~~
 3514 ~~physician may supervise only one office other than the~~
 3515 ~~osteopathic physician's primary place of practice, regardless of~~
 3516 ~~when the addresses of the offices were submitted to the Board of~~
 3517 ~~Osteopathic Medicine.~~

3518 (d) An osteopathic physician who supervises an office in
 3519 addition to the osteopathic physician's primary practice
 3520 location must conspicuously post in each of the osteopathic
 3521 physician's offices a current schedule of the regular hours when
 3522 the osteopathic physician is present in that office and the
 3523 hours when the office is open while the osteopathic physician is
 3524 not present.

3525 (e) This subsection does not apply to health care services
 3526 provided in facilities licensed under chapter 395 or in
 3527 conjunction with a college of medicine or college of nursing or
 3528 an accredited graduate medical or nursing education program;
 3529 offices where the only service being performed is hair removal
 3530 by an advanced practice registered nurse ~~practitioner~~ or
 3531 physician assistant; not-for-profit, family-planning clinics
 3532 that are not licensed pursuant to chapter 390; rural and
 3533 federally qualified health centers; health care services
 3534 provided in a nursing home licensed under part II of chapter
 3535 400, an assisted living facility licensed under part I of
 3536 chapter 429, a continuing care facility licensed under chapter
 3537 651, or a retirement community consisting of independent living
 3538 units and either a licensed nursing home or assisted living
 3539 facility; anesthesia services provided in accordance with law;
 3540 health care services provided in a designated rural health
 3541 clinic; health care services provided to persons enrolled in a
 3542 program designed to maintain elderly persons and persons with
 3543 disabilities in a home or community-based setting; university
 3544 primary care student health centers; school health clinics; or
 3545 health care services provided in federal, state, or local
 3546 government facilities.

3547 Section 75. Subsection (2) of section 464.004, Florida
 3548 Statutes, is amended to read:

3549 464.004 Board of Nursing; membership; appointment; terms.-

3550 (2) Seven members of the board must be registered nurses
 3551 who are residents of this state and who have been engaged in the
 3552 practice of professional nursing for at least 4 years, including
 3553 at least one advanced practice registered nurse ~~practitioner~~,
 3554 one nurse educator member of an approved program, and one nurse
 3555 executive. These seven board members should be representative of
 3556 the diverse areas of practice within the nursing profession. In
 3557 addition, three members of the board must be licensed practical
 3558 nurses who are residents of this state and who have been
 3559 actively engaged in the practice of practical nursing for at
 3560 least 4 years prior to their appointment. The remaining three
 3561 members must be residents of the state who have never been
 3562 licensed as nurses and who are in no way connected with the
 3563 practice of nursing. No person may be appointed as a lay member
 3564 who is in any way connected with, or has any financial interest
 3565 in, any health care facility, agency, or insurer. At least one
 3566 member of the board must be 60 years of age or older.

3567 Section 76. Paragraph (a) of subsection (4) of section
 3568 464.0205, Florida Statutes, is amended to read:

3569 464.0205 Retired volunteer nurse certificate.—

3570 (4) A retired volunteer nurse receiving certification from
 3571 the board shall:

3572 (a) Work under the direct supervision of the director of a
 3573 county health department, a physician working under a limited
 3574 license issued pursuant to s. 458.317 or s. 459.0075, a

3575 physician licensed under chapter 458 or chapter 459, an
 3576 independent advanced practice registered nurse registered under
 3577 s. 464.0125, an advanced practice registered nurse ~~practitioner~~
 3578 certified under s. 464.012, or a registered nurse licensed under
 3579 s. 464.008 or s. 464.009.

3580 Section 77. Subsection (2) of section 467.003, Florida
 3581 Statutes, is amended to read:

3582 467.003 Definitions.—As used in this chapter, unless the
 3583 context otherwise requires:

3584 (2) "Certified nurse midwife" means a person who is
 3585 certified ~~licensed~~ as an advanced practice registered nurse
 3586 ~~practitioner~~ under part I of chapter 464 and who is certified to
 3587 practice midwifery by the American College of Nurse Midwives.

3588 Section 78. Paragraph (b) of subsection (1) of section
 3589 480.0475, Florida Statutes, is amended to read:

3590 480.0475 Massage establishments; prohibited practices.—

3591 (1) A person may not operate a massage establishment
 3592 between the hours of midnight and 5 a.m. This subsection does
 3593 not apply to a massage establishment:

3594 (b) In which every massage performed between the hours of
 3595 midnight and 5 a.m. is performed by a massage therapist acting
 3596 under the prescription of a physician or physician assistant
 3597 licensed under chapter 458, an osteopathic physician or
 3598 physician assistant licensed under chapter 459, a chiropractic
 3599 physician licensed under chapter 460, a podiatric physician

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3600 licensed under chapter 461, an independent advanced practice
 3601 registered nurse registered or an advanced practice registered
 3602 nurse certified practitioner licensed under part I of chapter
 3603 464, or a dentist licensed under chapter 466; or

3604 Section 79. Subsection (7) of section 483.041, Florida
 3605 Statutes, is amended to read:

3606 483.041 Definitions.—As used in this part, the term:

3607 (7) "Licensed practitioner" means a physician licensed
 3608 under chapter 458, chapter 459, chapter 460, or chapter 461; a
 3609 physician assistant licensed under chapter 458 or chapter 459; a
 3610 certified optometrist licensed under chapter 463; a dentist
 3611 licensed under chapter 466; a person licensed under chapter 462;
 3612 a consultant pharmacist or doctor of pharmacy licensed under
 3613 chapter 465; an independent advanced practice registered nurse
 3614 registered or an advanced practice registered nurse certified
 3615 practitioner licensed under part I of chapter 464; or a duly
 3616 licensed practitioner from another state licensed under similar
 3617 statutes who orders examinations on materials or specimens for
 3618 nonresidents of the State of Florida, but who reside in the same
 3619 state as the requesting licensed practitioner.

3620 Section 80. Subsection (5) of section 483.181, Florida
 3621 Statutes, is amended to read:

3622 483.181 Acceptance, collection, identification, and
 3623 examination of specimens.—

3624 (5) A clinical laboratory licensed under this part must

3625 make its services available to a practitioner licensed,
 3626 certified, or registered under chapter 458, chapter 459, chapter
 3627 460, chapter 461, chapter 462, chapter 463, s. 464.012, s.
 3628 464.0125, or chapter 466, or to a consultant pharmacist or
 3629 doctor of pharmacy licensed under chapter 465. A clinical
 3630 laboratory shall not charge different prices for its services
 3631 based upon the chapter under which a practitioner is licensed.

3632 Section 81. Subsection (5) of section 483.801, Florida
 3633 Statutes, is amended to read:

3634 483.801 Exemptions.—This part applies to all clinical
 3635 laboratories and clinical laboratory personnel within this
 3636 state, except:

3637 (5) Advanced practice registered nurses certified ~~nurse~~
 3638 ~~practitioners licensed~~ under part I of chapter 464 who perform
 3639 provider-performed microscopy procedures (PPMP) in an exclusive-
 3640 use laboratory setting.

3641 Section 82. Paragraph (a) of subsection (11) of section
 3642 486.021, Florida Statutes, is amended to read:

3643 486.021 Definitions.—In this chapter, unless the context
 3644 otherwise requires, the term:

3645 (11) "Practice of physical therapy" means the performance
 3646 of physical therapy assessments and the treatment of any
 3647 disability, injury, disease, or other health condition of human
 3648 beings, or the prevention of such disability, injury, disease,
 3649 or other condition of health, and rehabilitation as related

3650 thereto by the use of the physical, chemical, and other
 3651 properties of air; electricity; exercise; massage; the
 3652 performance of acupuncture only upon compliance with the
 3653 criteria set forth by the Board of Medicine, when no penetration
 3654 of the skin occurs; the use of radiant energy, including
 3655 ultraviolet, visible, and infrared rays; ultrasound; water; the
 3656 use of apparatus and equipment in the application of the
 3657 foregoing or related thereto; the performance of tests of
 3658 neuromuscular functions as an aid to the diagnosis or treatment
 3659 of any human condition; or the performance of electromyography
 3660 as an aid to the diagnosis of any human condition only upon
 3661 compliance with the criteria set forth by the Board of Medicine.

3662 (a) A physical therapist may implement a plan of treatment
 3663 developed by the physical therapist for a patient or provided
 3664 for a patient by a practitioner of record, ~~or by an independent~~
 3665 advanced practice registered nurse registered under s. 464.0125,
 3666 or an advanced practice registered nurse certified practitioner
 3667 ~~licensed~~ under s. 464.012. The physical therapist shall refer
 3668 the patient to or consult with a practitioner of record if the
 3669 patient's condition is found to be outside the scope of physical
 3670 therapy. If physical therapy treatment for a patient is required
 3671 beyond 30 days for a condition not previously assessed by a
 3672 practitioner of record, the physical therapist shall have a
 3673 practitioner of record review and sign the plan. The requirement
 3674 that a physical therapist have a practitioner of record review

3675 and sign a plan of treatment does not apply when a patient has
 3676 been physically examined by a physician licensed in another
 3677 state, the patient has been diagnosed by the physician as having
 3678 a condition for which physical therapy is required, and the
 3679 physical therapist is treating the condition. For purposes of
 3680 this paragraph, a health care practitioner licensed under
 3681 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
 3682 466 and engaged in active practice is eligible to serve as a
 3683 practitioner of record.

3684 Section 83. Paragraph (d) of subsection (1) of section
 3685 490.012, Florida Statutes, is amended to read:

3686 490.012 Violations; penalties; injunction.-

3687 (1)

3688 (d) No person shall hold herself or himself out by any
 3689 title or description incorporating the word, or a permutation of
 3690 the word, "psychotherapy" unless such person holds a valid,
 3691 active license under chapter 458, chapter 459, chapter 490, or
 3692 chapter 491, or such person is registered as an independent
 3693 advanced practice registered nurse under s. 464.0125 or
 3694 certified as an advanced practice registered nurse under
 3695 practitioner, pursuant to s. 464.012, and who has been
 3696 determined by the Board of Nursing to be ~~as~~ a specialist in
 3697 psychiatric mental health.

3698 Section 84. Subsection (1) of section 491.0057, Florida
 3699 Statutes, is amended to read:

3700 491.0057 Dual licensure as a marriage and family
 3701 therapist.—The department shall license as a marriage and family
 3702 therapist any person who demonstrates to the board that he or
 3703 she:

3704 (1) Holds a valid, active license as a psychologist under
 3705 chapter 490 or as a clinical social worker or mental health
 3706 counselor under this chapter, or is registered under s. 464.0125
 3707 as an independent advanced practice registered nurse or
 3708 certified under s. 464.012 as an advanced practice registered
 3709 nurse and ~~practitioner who~~ has been determined by the Board of
 3710 Nursing to be ~~as~~ a specialist in psychiatric mental health.

3711 Section 85. Paragraph (d) of subsection (1) and subsection
 3712 (2) of section 491.012, Florida Statutes, are amended to read:

3713 491.012 Violations; penalty; injunction.—

3714 (1) It is unlawful and a violation of this chapter for any
 3715 person to:

3716 (d) Use the terms psychotherapist, sex therapist, or
 3717 juvenile sexual offender therapist unless such person is
 3718 licensed pursuant to this chapter or chapter 490, or is
 3719 registered under s. 464.0125 as an independent advanced practice
 3720 registered nurse or certified under s. 464.012 as an advanced
 3721 practice registered nurse and ~~practitioner who~~ has been
 3722 determined by the Board of Nursing to be ~~as~~ a specialist in
 3723 psychiatric mental health and the use of such terms is within
 3724 the scope of her or his practice based on education, training,

3725 and licensure.

3726 (2) It is unlawful and a violation of this chapter for any
 3727 person to describe her or his services using the following terms
 3728 or any derivative thereof, unless such person holds a valid,
 3729 active license under this chapter or chapter 490, or is
 3730 registered under s. 464.0125 as an independent advanced practice
 3731 registered nurse or certified under s. 464.012 as an advanced
 3732 practice registered nurse and ~~practitioner who~~ has been
 3733 determined by the Board of Nursing to be ~~as~~ a specialist in
 3734 psychiatric mental health and the use of such terms is within
 3735 the scope of her or his practice based on education, training,
 3736 and licensure:

- 3737 (a) "Psychotherapy."
- 3738 (b) "Sex therapy."
- 3739 (c) "Sex counseling."
- 3740 (d) "Clinical social work."
- 3741 (e) "Psychiatric social work."
- 3742 (f) "Marriage and family therapy."
- 3743 (g) "Marriage and family counseling."
- 3744 (h) "Marriage counseling."
- 3745 (i) "Family counseling."
- 3746 (j) "Mental health counseling."

3747 Section 86. Subsection (2) of section 493.6108, Florida
 3748 Statutes, is amended to read:

3749 493.6108 Investigation of applicants by Department of

3750 Agriculture and Consumer Services.-

3751 (2) In addition to subsection (1), the department shall
 3752 make an investigation of the general physical fitness of the
 3753 Class "G" applicant to bear a weapon or firearm. Determination
 3754 of physical fitness shall be certified by a physician or
 3755 physician assistant currently licensed pursuant to chapter 458,
 3756 chapter 459, or any similar law of another state or authorized
 3757 to act as a licensed physician by a federal agency or
 3758 department, or by an independent advanced practice registered
 3759 nurse registered or an advanced practice registered nurse
 3760 certified under part I of ~~practitioner currently licensed~~
 3761 ~~pursuant to~~ chapter 464. Such certification shall be submitted
 3762 on a form provided by the department.

3763 Section 87. Subsection (1) of section 626.9707, Florida
 3764 Statutes, is amended to read:

3765 626.9707 Disability insurance; discrimination on basis of
 3766 sickle-cell trait prohibited.-

3767 (1) An ~~No~~ insurer authorized to transact insurance in this
 3768 state may not ~~shall~~ refuse to issue and deliver in this state
 3769 any policy of disability insurance, whether such policy is
 3770 defined as individual, group, blanket, franchise, industrial, or
 3771 otherwise, which is currently being issued for delivery in this
 3772 state and which affords benefits and coverage for any medical
 3773 treatment or service authorized and permitted to be furnished by
 3774 a hospital, a clinic, a health clinic, a neighborhood health

3775 clinic, a health maintenance organization, a physician, a
 3776 physician ~~physician's~~ assistant, an independent advanced
 3777 practice registered nurse, an advanced practice registered nurse
 3778 ~~practitioner~~, or a medical service facility or personnel solely
 3779 because the person to be insured has the sickle-cell trait.

3780 Section 88. Paragraph (b) of subsection (1) of section
 3781 627.357, Florida Statutes, is amended to read:

3782 627.357 Medical malpractice self-insurance.—

3783 (1) DEFINITIONS.—As used in this section, the term:

3784 (b) "Health care provider" means any:

3785 1. Hospital licensed under chapter 395.

3786 2. Physician licensed, or physician assistant licensed,
 3787 under chapter 458.

3788 3. Osteopathic physician or physician assistant licensed
 3789 under chapter 459.

3790 4. Podiatric physician licensed under chapter 461.

3791 5. Health maintenance organization certificated under part
 3792 I of chapter 641.

3793 6. Ambulatory surgical center licensed under chapter 395.

3794 7. Chiropractic physician licensed under chapter 460.

3795 8. Psychologist licensed under chapter 490.

3796 9. Optometrist licensed under chapter 463.

3797 10. Dentist licensed under chapter 466.

3798 11. Pharmacist licensed under chapter 465.

3799 12. Registered nurse, licensed practical nurse,

3800 independent advanced practice registered nurse, or advanced
 3801 practice registered nurse ~~practitioner~~ licensed, ~~or~~ registered,
 3802 or certified under part I of chapter 464.

3803 13. Other medical facility.

3804 14. Professional association, partnership, corporation,
 3805 joint venture, or other association established by the
 3806 individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9.,
 3807 10., 11., and 12. for professional activity.

3808 Section 89. Subsection (6) of section 627.6471, Florida
 3809 Statutes, is amended to read:

3810 627.6471 Contracts for reduced rates of payment;
 3811 limitations; coinsurance and deductibles.-

3812 (6) If psychotherapeutic services are covered by a policy
 3813 issued by the insurer, the insurer shall provide eligibility
 3814 criteria for each group of health care providers licensed under
 3815 chapter 458, chapter 459, chapter 490, or chapter 491, which
 3816 include psychotherapy within the scope of their practice as
 3817 provided by law, or for any person who is registered as an
 3818 independent advanced practice registered nurse under s. 464.0125
 3819 or certified as an advanced practice registered nurse
 3820 ~~practitioner in psychiatric mental health~~ under s. 464.012 and
 3821 who specializes in psychiatric mental health. When
 3822 psychotherapeutic services are covered, eligibility criteria
 3823 shall be established by the insurer to be included in the
 3824 insurer's criteria for selection of network providers. The

3825 insurer may not discriminate against a health care provider by
 3826 excluding such practitioner from its provider network solely on
 3827 the basis of the practitioner's license.

3828 Section 90. Subsections (15) and (17) of section 627.6472,
 3829 Florida Statutes, are amended to read:

3830 627.6472 Exclusive provider organizations.-

3831 (15) If psychotherapeutic services are covered by a policy
 3832 issued by the insurer, the insurer shall provide eligibility
 3833 criteria for all groups of health care providers licensed under
 3834 chapter 458, chapter 459, chapter 490, or chapter 491, which
 3835 include psychotherapy within the scope of their practice as
 3836 provided by law, or for any person who is registered as an
 3837 independent advanced practice registered nurse under s. 464.0125
 3838 or certified as an advanced practice registered nurse
 3839 ~~practitioner in psychiatric mental health~~ under s. 464.012 and
 3840 who specializes in psychiatric mental health. When
 3841 psychotherapeutic services are covered, eligibility criteria
 3842 shall be established by the insurer to be included in the
 3843 insurer's criteria for selection of network providers. The
 3844 insurer may not discriminate against a health care provider by
 3845 excluding such practitioner from its provider network solely on
 3846 the basis of the practitioner's license.

3847 (17) An exclusive provider organization may ~~shall~~ not
 3848 discriminate with respect to participation as to any independent
 3849 advanced practice registered nurse registered pursuant to s.

3850 464.0125 or advanced practice registered nurse ~~practitioner~~
 3851 ~~licensed and~~ certified pursuant to s. 464.012, who is acting
 3852 within the scope of such registration or ~~license and~~
 3853 certification, solely on the basis of such registration ~~license~~
 3854 or certification. This subsection may ~~shall~~ not be construed to
 3855 prohibit a plan from including providers only to the extent
 3856 necessary to meet the needs of the plan's enrollees or from
 3857 establishing any measure designed to maintain quality and
 3858 control costs consistent with the responsibilities of the plan.

3859 Section 91. Paragraph (a) of subsection (1) of section
 3860 627.736, Florida Statutes, is amended to read:

3861 627.736 Required personal injury protection benefits;
 3862 exclusions; priority; claims.—

3863 (1) REQUIRED BENEFITS.—An insurance policy complying with
 3864 the security requirements of s. 627.733 must provide personal
 3865 injury protection to the named insured, relatives residing in
 3866 the same household, persons operating the insured motor vehicle,
 3867 passengers in the motor vehicle, and other persons struck by the
 3868 motor vehicle and suffering bodily injury while not an occupant
 3869 of a self-propelled vehicle, subject to subsection (2) and
 3870 paragraph (4)(e), to a limit of \$10,000 in medical and
 3871 disability benefits and \$5,000 in death benefits resulting from
 3872 bodily injury, sickness, disease, or death arising out of the
 3873 ownership, maintenance, or use of a motor vehicle as follows:

3874 (a) Medical benefits.—Eighty percent of all reasonable

3875 expenses for medically necessary medical, surgical, X-ray,
 3876 dental, and rehabilitative services, including prosthetic
 3877 devices and medically necessary ambulance, hospital, and nursing
 3878 services if the individual receives initial services and care
 3879 pursuant to subparagraph 1. within 14 days after the motor
 3880 vehicle accident. The medical benefits provide reimbursement
 3881 only for:

3882 1. Initial services and care that are lawfully provided,
 3883 supervised, ordered, or prescribed by a physician licensed under
 3884 chapter 458 or chapter 459, a dentist licensed under chapter
 3885 466, ~~or~~ a chiropractic physician licensed under chapter 460, or
 3886 an independent advance practice registered nurse registered
 3887 under s. 464.0125, or that are provided in a hospital or in a
 3888 facility that owns, or is wholly owned by, a hospital. Initial
 3889 services and care may also be provided by a person or entity
 3890 licensed under part III of chapter 401 which provides emergency
 3891 transportation and treatment.

3892 2. Upon referral by a provider described in subparagraph
 3893 1., followup services and care consistent with the underlying
 3894 medical diagnosis rendered pursuant to subparagraph 1. which may
 3895 be provided, supervised, ordered, or prescribed only by a
 3896 physician licensed under chapter 458 or chapter 459, a
 3897 chiropractic physician licensed under chapter 460, a dentist
 3898 licensed under chapter 466, an independent advance practice
 3899 registered nurse registered under s. 464.0125, or, to the extent

3900 permitted by applicable law and under the supervision of such
 3901 physician, osteopathic physician, chiropractic physician, ~~or~~
 3902 dentist, or independent advanced practice registered nurse, by a
 3903 physician assistant licensed under chapter 458 or chapter 459 or
 3904 an advanced practice registered nurse certified ~~practitioner~~
 3905 ~~licensed~~ under s. 464.012 ~~chapter 464~~. Followup services and
 3906 care may also be provided by the following persons or entities:

3907 a. A hospital or ambulatory surgical center licensed under
 3908 chapter 395.

3909 b. An entity wholly owned by one or more physicians
 3910 licensed under chapter 458 or chapter 459, chiropractic
 3911 physicians licensed under chapter 460, independent advanced
 3912 practice registered nurses registered under s. 464.0125, or
 3913 dentists licensed under chapter 466 or by such practitioners and
 3914 the spouse, parent, child, or sibling of such practitioners.

3915 c. An entity that owns or is wholly owned, directly or
 3916 indirectly, by a hospital or hospitals.

3917 d. A physical therapist licensed under chapter 486, based
 3918 upon a referral by a provider described in this subparagraph.

3919 e. A health care clinic licensed under part X of chapter
 3920 400 which is accredited by an accrediting organization whose
 3921 standards incorporate comparable regulations required by this
 3922 state, or

3923 (I) Has a medical director licensed under chapter 458,
 3924 chapter 459, or chapter 460;

3925 (II) Has been continuously licensed for more than 3 years
 3926 or is a publicly traded corporation that issues securities
 3927 traded on an exchange registered with the United States
 3928 Securities and Exchange Commission as a national securities
 3929 exchange; and

3930 (III) Provides at least four of the following medical
 3931 specialties:

3932 (A) General medicine.

3933 (B) Radiography.

3934 (C) Orthopedic medicine.

3935 (D) Physical medicine.

3936 (E) Physical therapy.

3937 (F) Physical rehabilitation.

3938 (G) Prescribing or dispensing outpatient prescription
 3939 medication.

3940 (H) Laboratory services.

3941 3. Reimbursement for services and care provided in
 3942 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 3943 licensed under chapter 458 or chapter 459, a dentist licensed
 3944 under chapter 466, a physician assistant licensed under chapter
 3945 458 or chapter 459, an independent advanced practice registered
 3946 nurse registered under s. 464.0125, or an advanced practice
 3947 registered nurse certified practitioner licensed under s.
 3948 464.012 ~~chapter 464~~ has determined that the injured person had
 3949 an emergency medical condition.

3950 4. Reimbursement for services and care provided in
 3951 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
 3952 provider listed in subparagraph 1. or subparagraph 2. determines
 3953 that the injured person did not have an emergency medical
 3954 condition.

3955 5. Medical benefits do not include massage as defined in
 3956 s. 480.033 or acupuncture as defined in s. 457.102, regardless
 3957 of the person, entity, or licensee providing massage or
 3958 acupuncture, and a licensed massage therapist or licensed
 3959 acupuncturist may not be reimbursed for medical benefits under
 3960 this section.

3961 6. The Financial Services Commission shall adopt by rule
 3962 the form that must be used by an insurer and a health care
 3963 provider specified in sub-subparagraph 2.b., sub-subparagraph
 3964 2.c., or sub-subparagraph 2.e. to document that the health care
 3965 provider meets the criteria of this paragraph. Such rule must
 3966 include a requirement for a sworn statement or affidavit.

3967
 3968 Only insurers writing motor vehicle liability insurance in this
 3969 state may provide the required benefits of this section, and
 3970 such insurer may not require the purchase of any other motor
 3971 vehicle coverage other than the purchase of property damage
 3972 liability coverage as required by s. 627.7275 as a condition for
 3973 providing such benefits. Insurers may not require that property
 3974 damage liability insurance in an amount greater than \$10,000 be

3975 purchased in conjunction with personal injury protection. Such
 3976 insurers shall make benefits and required property damage
 3977 liability insurance coverage available through normal marketing
 3978 channels. An insurer writing motor vehicle liability insurance
 3979 in this state who fails to comply with such availability
 3980 requirement as a general business practice violates part IX of
 3981 chapter 626, and such violation constitutes an unfair method of
 3982 competition or an unfair or deceptive act or practice involving
 3983 the business of insurance. An insurer committing such violation
 3984 is subject to the penalties provided under that part, as well as
 3985 those provided elsewhere in the insurance code.

3986 Section 92. Subsection (5) of section 633.412, Florida
 3987 Statutes, is amended to read:

3988 633.412 Firefighters; qualifications for certification.—A
 3989 person applying for certification as a firefighter must:

3990 (5) Be in good physical condition as determined by a
 3991 medical examination given by a physician, surgeon, or physician
 3992 assistant licensed to practice in the state under ~~pursuant to~~
 3993 chapter 458; an osteopathic physician, surgeon, or physician
 3994 assistant licensed to practice in the state under ~~pursuant to~~
 3995 chapter 459; or an independent advanced practice registered
 3996 nurse registered or an advanced practice registered nurse
 3997 certified practitioner licensed to practice in the state under
 3998 part I of ~~pursuant to~~ chapter 464. Such examination may include,
 3999 but need not be limited to, the National Fire Protection

4000 Association Standard 1582. A medical examination evidencing good
 4001 physical condition shall be submitted to the division, on a form
 4002 as provided by rule, before an individual is eligible for
 4003 admission into a course under s. 633.408.

4004 Section 93. Section 641.3923, Florida Statutes, is amended
 4005 to read:

4006 641.3923 Discrimination against providers prohibited.—A
 4007 health maintenance organization may ~~shall~~ not discriminate with
 4008 respect to participation as to any independent advanced practice
 4009 registered nurse registered under s. 464.0125, advanced practice
 4010 registered nurse practitioner licensed and certified under
 4011 pursuant to s. 464.012, or physician assistant licensed under
 4012 chapter 458 or chapter 459, who is acting within the scope of
 4013 such registration, license and certification, or license, solely
 4014 on the basis of such registration, license or certification, or
 4015 license. This section may shall not be construed to prohibit a
 4016 plan from including providers only to the extent necessary to
 4017 meet the needs of the plan's enrollees or from establishing any
 4018 measure designed to maintain quality and control costs
 4019 consistent with the responsibilities of the plan.

4020 Section 94. Subsection (8) of section 641.495, Florida
 4021 Statutes, is amended to read:

4022 641.495 Requirements for issuance and maintenance of
 4023 certificate.—

4024 (8) Each organization's contracts, certificates, and

4025 subscriber handbooks shall contain a provision, if applicable,
 4026 disclosing that, for certain types of described medical
 4027 procedures, services may be provided by physician assistants,
 4028 independent advanced practice registered nurses, advanced
 4029 practice registered nurses ~~nurse practitioners~~, or other
 4030 individuals who are not licensed physicians.

4031 Section 95. Subsection (1) of section 744.2006, Florida
 4032 Statutes, is amended to read:

4033 744.2006 Office of Public and Professional Guardians;
 4034 appointment, notification.—

4035 (1) The executive director of the Office of Public and
 4036 Professional Guardians, after consultation with the chief judge
 4037 and other circuit judges within the judicial circuit and with
 4038 appropriate advocacy groups and individuals and organizations
 4039 who are knowledgeable about the needs of incapacitated persons,
 4040 may establish, within a county in the judicial circuit or within
 4041 the judicial circuit, one or more offices of public guardian and
 4042 if so established, shall create a list of persons best qualified
 4043 to serve as the public guardian, who have been investigated
 4044 pursuant to s. 744.3135. The public guardian must have knowledge
 4045 of the legal process and knowledge of social services available
 4046 to meet the needs of incapacitated persons. The public guardian
 4047 shall maintain a staff or contract with professionally qualified
 4048 individuals to carry out the guardianship functions, including
 4049 an attorney who has experience in probate areas and another

4050 person who has a master's degree in social work, or a
 4051 gerontologist, a psychologist, a registered nurse, an
 4052 independent advanced practice registered nurse, or an advanced
 4053 practice registered nurse practitioner. A public guardian that
 4054 is a nonprofit corporate guardian under s. 744.309(5) must
 4055 receive tax-exempt status from the United States Internal
 4056 Revenue Service.

4057 Section 96. Paragraph (a) of subsection (3) of section
 4058 744.331, Florida Statutes, is amended to read:

4059 744.331 Procedures to determine incapacity.—

4060 (3) EXAMINING COMMITTEE.—

4061 (a) Within 5 days after a petition for determination of
 4062 incapacity has been filed, the court shall appoint an examining
 4063 committee consisting of three members. One member must be a
 4064 psychiatrist or other physician. The remaining members must be
 4065 either a psychologist, a gerontologist, a ~~another~~ psychiatrist,
 4066 a ~~or other~~ physician, a registered nurse, an advanced practice
 4067 registered nurse practitioner, a physician assistant, a licensed
 4068 social worker, a person with an advanced degree in gerontology
 4069 from an accredited institution of higher education, or another
 4070 ~~other~~ person who by knowledge, skill, experience, training, or
 4071 education may, in the court's discretion, advise the court in
 4072 the form of an expert opinion. One of three members of the
 4073 committee must have knowledge of the type of incapacity alleged
 4074 in the petition. Unless good cause is shown, the attending or

4075 family physician may not be appointed to the committee. If the
 4076 attending or family physician is available for consultation, the
 4077 committee must consult with the physician. Members of the
 4078 examining committee may not be related to or associated with one
 4079 another, with the petitioner, with counsel for the petitioner or
 4080 the proposed guardian, or with the person alleged to be totally
 4081 or partially incapacitated. A member may not be employed by any
 4082 private or governmental agency that has custody of, or
 4083 furnishes, services or subsidies, directly or indirectly, to the
 4084 person or the family of the person alleged to be incapacitated
 4085 or for whom a guardianship is sought. A petitioner may not serve
 4086 as a member of the examining committee. Members of the examining
 4087 committee must be able to communicate, either directly or
 4088 through an interpreter, in the language that the alleged
 4089 incapacitated person speaks or to communicate in a medium
 4090 understandable to the alleged incapacitated person if she or he
 4091 is able to communicate. The clerk of the court shall send notice
 4092 of the appointment to each person appointed no later than 3 days
 4093 after the court's appointment.

4094 Section 97. Subsection (6) of section 766.102, Florida
 4095 Statutes, is amended to read:

4096 766.102 Medical negligence; standards of recovery; expert
 4097 witness.—

4098 (6) A physician licensed under chapter 458 or chapter 459
 4099 who qualifies as an expert witness under subsection (5) and who,

4100 by reason of active clinical practice or instruction of
 4101 students, has knowledge of the applicable standard of care for
 4102 nurses, independent advanced practice registered nurses,
 4103 advanced practice registered nurses ~~nurse practitioners,~~
 4104 ~~certified registered nurse anesthetists, certified registered~~
 4105 ~~nurse midwives,~~ physician assistants, or other medical support
 4106 staff may give expert testimony in a medical negligence action
 4107 with respect to the standard of care of such medical support
 4108 staff.

4109 Section 98. Subsection (3) of section 766.103, Florida
 4110 Statutes, is amended to read:

4111 766.103 Florida Medical Consent Law.—

4112 (3) ~~No~~ Recovery is not ~~shall be~~ allowed in any court in
 4113 this state against any physician licensed under chapter 458,
 4114 osteopathic physician licensed under chapter 459, chiropractic
 4115 physician licensed under chapter 460, podiatric physician
 4116 licensed under chapter 461, dentist licensed under chapter 466,
 4117 independent advanced practice registered nurse registered under
 4118 s. 464.0125, advanced practice registered nurse ~~practitioner~~
 4119 certified under s. 464.012, or physician assistant licensed
 4120 under s. 458.347 or s. 459.022 in an action brought for
 4121 treating, examining, or operating on a patient without his or
 4122 her informed consent when:

4123 (a)1. The action of the physician, osteopathic physician,
 4124 chiropractic physician, podiatric physician, dentist,

4125 independent advanced practice registered nurse, advanced
 4126 practice registered nurse ~~practitioner~~, or physician assistant
 4127 in obtaining the consent of the patient or another person
 4128 authorized to give consent for the patient was in accordance
 4129 with an accepted standard of medical practice among members of
 4130 the medical profession with similar training and experience in
 4131 the same or similar medical community as that of the person
 4132 treating, examining, or operating on the patient for whom the
 4133 consent is obtained; and

4134 2. A reasonable individual, from the information provided
 4135 by the physician, osteopathic physician, chiropractic physician,
 4136 podiatric physician, dentist, independent advanced practice
 4137 registered nurse, advanced practice registered nurse
 4138 ~~practitioner~~, or physician assistant, under the circumstances,
 4139 would have a general understanding of the procedure, the
 4140 medically acceptable alternative procedures or treatments, and
 4141 the substantial risks and hazards inherent in the proposed
 4142 treatment or procedures, which are recognized among other
 4143 physicians, osteopathic physicians, chiropractic physicians,
 4144 podiatric physicians, or dentists in the same or similar
 4145 community who perform similar treatments or procedures; or

4146 (b) The patient would reasonably, under all the
 4147 surrounding circumstances, have undergone such treatment or
 4148 procedure had he or she been advised by the physician,
 4149 osteopathic physician, chiropractic physician, podiatric

4150 physician, dentist, independent advanced practice registered
 4151 nurse, advanced practice registered nurse ~~practitioner~~, or
 4152 physician assistant in accordance with the provisions of
 4153 paragraph (a).

4154 Section 99. Paragraph (d) of subsection (3) of section
 4155 766.1115, Florida Statutes, is amended to read:

4156 766.1115 Health care providers; creation of agency
 4157 relationship with governmental contractors.-

4158 (3) DEFINITIONS.-As used in this section, the term:

4159 (d) "Health care provider" or "provider" means:

- 4160 1. A birth center licensed under chapter 383.
- 4161 2. An ambulatory surgical center licensed under chapter
 4162 395.
- 4163 3. A hospital licensed under chapter 395.
- 4164 4. A physician or physician assistant licensed under
 4165 chapter 458.
- 4166 5. An osteopathic physician or osteopathic physician
 4167 assistant licensed under chapter 459.
- 4168 6. A chiropractic physician licensed under chapter 460.
- 4169 7. A podiatric physician licensed under chapter 461.
- 4170 8. A registered nurse, ~~nurse midwife~~, a licensed practical
 4171 nurse, an independent advanced practice registered nurse, or an
 4172 advanced practice registered nurse ~~practitioner~~ licensed,
 4173 registered, or certified ~~registered~~ under part I of chapter 464
 4174 or any facility which employs nurses licensed or registered

4175 | under part I of chapter 464 to supply all or part of the care
 4176 | delivered under this section.

4177 | 9. A midwife licensed under chapter 467.

4178 | 10. A health maintenance organization certificated under
 4179 | part I of chapter 641.

4180 | 11. A health care professional association and its
 4181 | employees or a corporate medical group and its employees.

4182 | 12. Any other medical facility the primary purpose of
 4183 | which is to deliver human medical diagnostic services or which
 4184 | delivers nonsurgical human medical treatment, and which includes
 4185 | an office maintained by a provider.

4186 | 13. A dentist or dental hygienist licensed under chapter
 4187 | 466.

4188 | 14. A free clinic that delivers only medical diagnostic
 4189 | services or nonsurgical medical treatment free of charge to all
 4190 | low-income recipients.

4191 | 15. Any other health care professional, practitioner,
 4192 | provider, or facility under contract with a governmental
 4193 | contractor, including a student enrolled in an accredited
 4194 | program that prepares the student for licensure as any one of
 4195 | the professionals listed in subparagraphs 4.-9.

4196 |
 4197 | The term includes any nonprofit corporation qualified as exempt
 4198 | from federal income taxation under s. 501(a) of the Internal
 4199 | Revenue Code, and described in s. 501(c) of the Internal Revenue

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4200 Code, which delivers health care services provided by licensed
 4201 professionals listed in this paragraph, any federally funded
 4202 community health center, and any volunteer corporation or
 4203 volunteer health care provider that delivers health care
 4204 services.

4205 Section 100. Subsection (1) of section 766.1116, Florida
 4206 Statutes, is amended to read:

4207 766.1116 Health care practitioner; waiver of license
 4208 renewal fees and continuing education requirements.—

4209 (1) As used in this section, the term "health care
 4210 practitioner" means a physician or physician assistant licensed
 4211 under chapter 458; an osteopathic physician or physician
 4212 assistant licensed under chapter 459; a chiropractic physician
 4213 licensed under chapter 460; a podiatric physician licensed under
 4214 chapter 461; an independent advanced practice registered nurse,
 4215 an advanced practice registered nurse ~~practitioner~~, a registered
 4216 nurse, or a licensed practical nurse licensed, registered, or
 4217 certified under part I of chapter 464; a dentist or dental
 4218 hygienist licensed under chapter 466; or a midwife licensed
 4219 under chapter 467, who participates as a health care provider
 4220 under s. 766.1115.

4221 Section 101. Paragraph (c) of subsection (1) of section
 4222 766.118, Florida Statutes, is amended to read:

4223 766.118 Determination of noneconomic damages.—

4224 (1) DEFINITIONS.—As used in this section, the term:

4225 (c) "Practitioner" means any person licensed, registered,
 4226 or certified under chapter 458, chapter 459, chapter 460,
 4227 chapter 461, chapter 462, chapter 463, chapter 466, chapter 467,
 4228 or chapter 486; s. 464.0125; or ~~certified under~~ s. 464.012.
 4229 "Practitioner" also means any association, corporation, firm,
 4230 partnership, or other business entity under which such
 4231 practitioner practices or any employee of such practitioner or
 4232 entity acting in the scope of his or her employment. For the
 4233 purpose of determining the limitations on noneconomic damages
 4234 set forth in this section, the term "practitioner" includes any
 4235 person or entity for whom a practitioner is vicariously liable
 4236 and any person or entity whose liability is based solely on such
 4237 person or entity being vicariously liable for the actions of a
 4238 practitioner.

4239 Section 102. Subsection (3) of section 768.135, Florida
 4240 Statutes, is amended to read:

4241 768.135 Volunteer team practitioner ~~physicians~~; immunity.—

4242 (3) A practitioner licensed, certified, or registered
 4243 under chapter 458, chapter 459, chapter 460, ~~or~~ s. 464.012, or
 4244 s. 464.0125 who gratuitously and in good faith conducts an
 4245 evaluation pursuant to s. 1006.20(2)(c) is not liable for any
 4246 civil damages arising from that evaluation unless the evaluation
 4247 was conducted in a wrongful manner.

4248 Section 103. Subsection (4) of section 782.071, Florida
 4249 Statutes, is amended to read:

4250 782.071 Vehicular homicide.--"Vehicular homicide" is the
 4251 killing of a human being, or the killing of an unborn child by
 4252 any injury to the mother, caused by the operation of a motor
 4253 vehicle by another in a reckless manner likely to cause the
 4254 death of, or great bodily harm to, another.

4255 (4) In addition to any other punishment, the court may
 4256 order the person to serve 120 community service hours in a
 4257 trauma center or hospital that regularly receives victims of
 4258 vehicle accidents, under the supervision of an independent
 4259 advanced practice registered nurse, an advanced practice
 4260 registered nurse, a registered nurse, an emergency room
 4261 physician, or an emergency medical technician pursuant to a
 4262 voluntary community service program operated by the trauma
 4263 center or hospital.

4264 Section 104. Subsection (5) of section 794.08, Florida
 4265 Statutes, is amended to read:

4266 794.08 Female genital mutilation.--

4267 (5) This section does not apply to procedures performed by
 4268 or under the direction of a physician licensed under chapter
 4269 458;~~;~~ an osteopathic physician licensed under chapter 459;~~;~~ a
 4270 registered nurse ~~licensed under part I of chapter 464,~~ a
 4271 practical nurse ~~licensed under part I of chapter 464,~~ an
 4272 independent advanced practice registered nurse, or an advanced
 4273 practice registered nurse practitioner licensed, registered, or
 4274 certified under part I of chapter 464;~~;~~ a midwife licensed under

4275 chapter 467;~~7~~ or a physician assistant licensed under chapter
 4276 458 or chapter 459, when necessary to preserve the physical
 4277 health of a female person. This section also does not apply to
 4278 any autopsy or limited dissection conducted pursuant to chapter
 4279 406.

4280 Section 105. Subsection (23) of section 893.02, Florida
 4281 Statutes, is amended to read:

4282 893.02 Definitions.—The following words and phrases as
 4283 used in this chapter shall have the following meanings, unless
 4284 the context otherwise requires:

4285 (23) "Practitioner" means a physician licensed under
 4286 chapter 458, a dentist licensed under chapter 466, a
 4287 veterinarian licensed under chapter 474, an osteopathic
 4288 physician licensed under chapter 459, an independent advanced
 4289 practice registered nurse registered under s. 464.0125, an
 4290 advanced practice registered nurse ~~practitioner~~ certified under
 4291 s. 464.012 ~~chapter 464~~, a naturopath licensed under chapter 462,
 4292 a certified optometrist licensed under chapter 463, a
 4293 psychiatric nurse as defined in s. 394.455, a podiatric
 4294 physician licensed under chapter 461, or a physician assistant
 4295 licensed under chapter 458 or chapter 459, provided such
 4296 practitioner holds a valid federal controlled substance registry
 4297 number.

4298 Section 106. Paragraph (b) of subsection (1) of section
 4299 893.05, Florida Statutes, is amended to read:

4300 893.05 Practitioners and persons administering controlled
 4301 substances in their absence.—

4302 (1)

4303 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.
 4304 464.012(3), as applicable, a practitioner who supervises a
 4305 licensed physician assistant or certified advanced practice
 4306 registered nurse ~~practitioner~~ may authorize the licensed
 4307 physician assistant or certified advanced practice registered
 4308 nurse ~~practitioner~~ to order controlled substances for
 4309 administration to a patient in a facility licensed under chapter
 4310 395 or part II of chapter 400.

4311 Section 107. Subsection (6) of section 943.13, Florida
 4312 Statutes, is amended to read:

4313 943.13 Officers' minimum qualifications for employment or
 4314 appointment.—On or after October 1, 1984, any person employed or
 4315 appointed as a full-time, part-time, or auxiliary law
 4316 enforcement officer or correctional officer; on or after October
 4317 1, 1986, any person employed as a full-time, part-time, or
 4318 auxiliary correctional probation officer; and on or after
 4319 October 1, 1986, any person employed as a full-time, part-time,
 4320 or auxiliary correctional officer by a private entity under
 4321 contract to the Department of Corrections, to a county
 4322 commission, or to the Department of Management Services shall:

4323 (6) Have passed a physical examination by a licensed
 4324 physician, a physician assistant, a registered independent

4325 advanced practice registered nurse, or a certified advanced
 4326 practice registered nurse ~~practitioner~~, based on specifications
 4327 established by the commission. In order to be eligible for the
 4328 presumption set forth in s. 112.18 while employed with an
 4329 employing agency, a law enforcement officer, correctional
 4330 officer, or correctional probation officer must have
 4331 successfully passed the physical examination required by this
 4332 subsection upon entering into service as a law enforcement
 4333 officer, correctional officer, or correctional probation officer
 4334 with the employing agency, which examination must have failed to
 4335 reveal any evidence of tuberculosis, heart disease, or
 4336 hypertension. A law enforcement officer, correctional officer,
 4337 or correctional probation officer may not use a physical
 4338 examination from a former employing agency for purposes of
 4339 claiming the presumption set forth in s. 112.18 against the
 4340 current employing agency.

4341 Section 108. Subsection (2) of section 945.603, Florida
 4342 Statutes, is amended to read:

4343 945.603 Powers and duties of authority.—The purpose of the
 4344 authority is to assist in the delivery of health care services
 4345 for inmates in the Department of Corrections by advising the
 4346 Secretary of Corrections on the professional conduct of primary,
 4347 convalescent, dental, and mental health care and the management
 4348 of costs consistent with quality care, by advising the Governor
 4349 and the Legislature on the status of the Department of

4350 Corrections' health care delivery system, and by assuring that
 4351 adequate standards of physical and mental health care for
 4352 inmates are maintained at all Department of Corrections
 4353 institutions. For this purpose, the authority has the authority
 4354 to:

4355 (2) Review and make recommendations regarding health care
 4356 for the delivery of health care services including, but not
 4357 limited to, acute hospital-based services and facilities,
 4358 primary and tertiary care services, ancillary and clinical
 4359 services, dental services, mental health services, intake and
 4360 screening services, medical transportation services, and the use
 4361 of advanced practice registered nurses ~~nurse practitioner~~ and
 4362 physician assistants ~~assistant personnel~~ to act as physician
 4363 extenders as these relate to inmates in the Department of
 4364 Corrections.

4365 Section 109. Paragraph (n) of subsection (1) of section
 4366 948.03, Florida Statutes, is amended to read:

4367 948.03 Terms and conditions of probation.—

4368 (1) The court shall determine the terms and conditions of
 4369 probation. Conditions specified in this section do not require
 4370 oral pronouncement at the time of sentencing and may be
 4371 considered standard conditions of probation. These conditions
 4372 may include among them the following, that the probationer or
 4373 offender in community control shall:

4374 (n) Be prohibited from using intoxicants to excess or

4375 possessing any drugs or narcotics unless prescribed by a
 4376 physician, an independent advanced practice registered nurse, an
 4377 advanced practice registered nurse ~~practitioner~~, or a physician
 4378 assistant. The probationer or community controllee may not
 4379 knowingly visit places where intoxicants, drugs, or other
 4380 dangerous substances are unlawfully sold, dispensed, or used.

4381 Section 110. Subsection (2) of section 960.28, Florida
 4382 Statutes, is amended to read:

4383 960.28 Payment for victims' initial forensic physical
 4384 examinations.—

4385 (2) The Crime Victims' Services Office of the department
 4386 shall pay for medical expenses connected with an initial
 4387 forensic physical examination of a victim of sexual battery as
 4388 defined in chapter 794 or a lewd or lascivious offense as
 4389 defined in chapter 800. Such payment shall be made regardless of
 4390 whether the victim is covered by health or disability insurance
 4391 and whether the victim participates in the criminal justice
 4392 system or cooperates with law enforcement. The payment shall be
 4393 made only out of moneys allocated to the Crime Victims' Services
 4394 Office for the purposes of this section, and the payment may not
 4395 exceed \$500 with respect to any violation. The department shall
 4396 develop and maintain separate protocols for the initial forensic
 4397 physical examination of adults and children. Payment under this
 4398 section is limited to medical expenses connected with the
 4399 initial forensic physical examination, and payment may be made

4400 to a medical provider using an examiner qualified under part I
 4401 of chapter 464, excluding s. 464.003(17) ~~464.003(16)~~; chapter
 4402 458; or chapter 459. Payment made to the medical provider by the
 4403 department shall be considered by the provider as payment in
 4404 full for the initial forensic physical examination associated
 4405 with the collection of evidence. The victim may not be required
 4406 to pay, directly or indirectly, the cost of an initial forensic
 4407 physical examination performed in accordance with this section.

4408 Section 111. Paragraph (i) of subsection (3) of section
 4409 1002.20, Florida Statutes, is amended to read:

4410 1002.20 K-12 student and parent rights.—Parents of public
 4411 school students must receive accurate and timely information
 4412 regarding their child's academic progress and must be informed
 4413 of ways they can help their child to succeed in school. K-12
 4414 students and their parents are afforded numerous statutory
 4415 rights including, but not limited to, the following:

4416 (3) HEALTH ISSUES.—

4417 (i) Epinephrine use and supply.—

4418 1. A student who has experienced or is at risk for life-
 4419 threatening allergic reactions may carry an epinephrine auto-
 4420 injector and self-administer epinephrine by auto-injector while
 4421 in school, participating in school-sponsored activities, or in
 4422 transit to or from school or school-sponsored activities if the
 4423 school has been provided with parental and physician
 4424 authorization. The State Board of Education, in cooperation with

4425 the Department of Health, shall adopt rules for such use of
 4426 epinephrine auto-injectors that shall include provisions to
 4427 protect the safety of all students from the misuse or abuse of
 4428 auto-injectors. A school district, county health department,
 4429 public-private partner, and their employees and volunteers shall
 4430 be indemnified by the parent of a student authorized to carry an
 4431 epinephrine auto-injector for any and all liability with respect
 4432 to the student's use of an epinephrine auto-injector pursuant to
 4433 this paragraph.

4434 2. A public school may purchase a supply of epinephrine
 4435 auto-injectors from a wholesale distributor as defined in s.
 4436 499.003 or may enter into an arrangement with a wholesale
 4437 distributor or manufacturer as defined in s. 499.003 for the
 4438 epinephrine auto-injectors at fair-market, free, or reduced
 4439 prices for use in the event a student has an anaphylactic
 4440 reaction. The epinephrine auto-injectors must be maintained in a
 4441 secure location on the public school's premises. The
 4442 participating school district shall adopt a protocol developed
 4443 by a licensed physician for the administration by school
 4444 personnel who are trained to recognize an anaphylactic reaction
 4445 and to administer an epinephrine auto-injection. The supply of
 4446 epinephrine auto-injectors may be provided to and used by a
 4447 student authorized to self-administer epinephrine by auto-
 4448 injector under subparagraph 1. or trained school personnel.

4449 3. The school district and its employees, agents, and the

4450 physician who provides the standing protocol for school
 4451 epinephrine auto-injectors are not liable for any injury arising
 4452 from the use of an epinephrine auto-injector administered by
 4453 trained school personnel who follow the adopted protocol and
 4454 whose professional opinion is that the student is having an
 4455 anaphylactic reaction:

4456 a. Unless the trained school personnel's action is willful
 4457 and wanton;

4458 b. Notwithstanding that the parents or guardians of the
 4459 student to whom the epinephrine is administered have not been
 4460 provided notice or have not signed a statement acknowledging
 4461 that the school district is not liable; and

4462 c. Regardless of whether authorization has been given by
 4463 the student's parents or guardians or by the student's
 4464 physician, a physician ~~physician's~~ assistant, an independent
 4465 advanced practice registered nurse, or an advanced practice
 4466 registered nurse ~~practitioner~~.

4467 Section 112. Paragraph (b) of subsection (17) of section
 4468 1002.42, Florida Statutes, is amended to read:

4469 1002.42 Private schools.—

4470 (17) EPINEPHRINE SUPPLY.—

4471 (b) The private school and its employees, agents, and the
 4472 physician who provides the standing protocol for school
 4473 epinephrine auto-injectors are not liable for any injury arising
 4474 from the use of an epinephrine auto-injector administered by

4475 trained school personnel who follow the adopted protocol and
 4476 whose professional opinion is that the student is having an
 4477 anaphylactic reaction:

4478 1. Unless the trained school personnel's action is willful
 4479 and wanton;

4480 2. Notwithstanding that the parents or guardians of the
 4481 student to whom the epinephrine is administered have not been
 4482 provided notice or have not signed a statement acknowledging
 4483 that the school district is not liable; and

4484 3. Regardless of whether authorization has been given by
 4485 the student's parents or guardians or by the student's
 4486 physician, a physician ~~physician's~~ assistant, an independent
 4487 advanced practice registered nurse, or an advanced practice
 4488 registered nurse ~~practitioner~~.

4489 Section 113. Subsections (4) and (5) of section 1006.062,
 4490 Florida Statutes, are amended to read:

4491 1006.062 Administration of medication and provision of
 4492 medical services by district school board personnel.—

4493 (4) Nonmedical assistive personnel shall be allowed to
 4494 perform health-related services upon successful completion of
 4495 child-specific training by a registered nurse, an independent
 4496 advanced practice registered nurse, or an advanced practice
 4497 registered nurse ~~practitioner~~ licensed, registered, or certified
 4498 under part I of chapter 464;~~;~~ a physician licensed pursuant to
 4499 chapter 458 or chapter 459;~~;~~ or a physician assistant licensed

4500 pursuant to chapter 458 or chapter 459. All procedures shall be
 4501 monitored periodically by a nurse, an independent advanced
 4502 practice registered nurse, an advanced practice registered nurse
 4503 ~~practitioner~~, a physician assistant, or a physician, including,
 4504 but not limited to:

- 4505 (a) Intermittent clean catheterization.
- 4506 (b) Gastrostomy tube feeding.
- 4507 (c) Monitoring blood glucose.
- 4508 (d) Administering emergency injectable medication.
- 4509 (5) For all other invasive medical services not listed in
 4510 this subsection, a registered nurse, an independent advanced
 4511 practice registered nurse, or an advanced practice registered
 4512 nurse practitioner licensed, registered, or certified under part
 4513 I of chapter 464; ~~a physician licensed pursuant to chapter 458~~
 4514 ~~or chapter 459;~~ or a physician assistant licensed pursuant to
 4515 chapter 458 or chapter 459 shall determine if nonmedical
 4516 district school board personnel shall be allowed to perform such
 4517 service.

4518 Section 114. Paragraph (c) of subsection (2) of section
 4519 1006.20, Florida Statutes, is amended to read:

4520 1006.20 Athletics in public K-12 schools.—

4521 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

4522 (c) The FHSAA shall adopt bylaws that require all students
 4523 participating in interscholastic athletic competition or who are
 4524 candidates for an interscholastic athletic team to

4525 | satisfactorily pass a medical evaluation each year prior to
 4526 | participating in interscholastic athletic competition or
 4527 | engaging in any practice, tryout, workout, or other physical
 4528 | activity associated with the student's candidacy for an
 4529 | interscholastic athletic team. Such medical evaluation may be
 4530 | administered only by a practitioner licensed, certified, or
 4531 | registered under chapter 458, chapter 459, chapter 460, ~~or~~ s.
 4532 | 464.012, or s. 464.0125, and in good standing with the
 4533 | practitioner's regulatory board. The bylaws shall establish
 4534 | requirements for eliciting a student's medical history and
 4535 | performing the medical evaluation required under this paragraph,
 4536 | which shall include a physical assessment of the student's
 4537 | physical capabilities to participate in interscholastic athletic
 4538 | competition as contained in a uniform preparticipation physical
 4539 | evaluation and history form. The evaluation form shall
 4540 | incorporate the recommendations of the American Heart
 4541 | Association for participation cardiovascular screening and shall
 4542 | provide a place for the signature of the practitioner performing
 4543 | the evaluation with an attestation that each examination
 4544 | procedure listed on the form was performed by the practitioner
 4545 | or by someone under the direct supervision of the practitioner.
 4546 | The form shall also contain a place for the practitioner to
 4547 | indicate if a referral to another practitioner was made in lieu
 4548 | of completion of a certain examination procedure. The form shall
 4549 | provide a place for the practitioner to whom the student was

4550 referred to complete the remaining sections and attest to that
 4551 portion of the examination. The preparticipation physical
 4552 evaluation form shall advise students to complete a
 4553 cardiovascular assessment and shall include information
 4554 concerning alternative cardiovascular evaluation and diagnostic
 4555 tests. Results of such medical evaluation must be provided to
 4556 the school. A student is not eligible to participate, as
 4557 provided in s. 1006.15(3), in any interscholastic athletic
 4558 competition or engage in any practice, tryout, workout, or other
 4559 physical activity associated with the student's candidacy for an
 4560 interscholastic athletic team until the results of the medical
 4561 evaluation have been received and approved by the school.

4562 Section 115. Subsection (1) and paragraph (a) of
 4563 subsection (2) of section 1009.65, Florida Statutes, are amended
 4564 to read:

4565 1009.65 Medical Education Reimbursement and Loan Repayment
 4566 Program.—

4567 (1) To encourage qualified medical professionals to
 4568 practice in underserved locations where there are shortages of
 4569 such personnel, there is established the Medical Education
 4570 Reimbursement and Loan Repayment Program. The function of the
 4571 program is to make payments that offset loans and educational
 4572 expenses incurred by students for studies leading to a medical
 4573 or nursing degree, medical or nursing licensure, or advanced
 4574 practice registered nurse ~~practitioner~~ certification or

4575 physician assistant licensure. The following licensed or
 4576 certified health care professionals are eligible to participate
 4577 in this program: medical doctors with primary care specialties,
 4578 doctors of osteopathic medicine with primary care specialties,
 4579 physician ~~physician's~~ assistants, licensed practical nurses and
 4580 registered nurses, and advanced practice registered nurses ~~nurse~~
 4581 ~~practitioners~~ with primary care specialties such as certified
 4582 nurse midwives. Primary care medical specialties for physicians
 4583 include obstetrics, gynecology, general and family practice,
 4584 internal medicine, pediatrics, and other specialties which may
 4585 be identified by the Department of Health.

4586 (2) From the funds available, the Department of Health
 4587 shall make payments to selected medical professionals as
 4588 follows:

4589 (a) Up to \$4,000 per year for licensed practical nurses
 4590 and registered nurses, up to \$10,000 per year for advanced
 4591 practice registered nurses ~~nurse practitioners~~ and physician
 4592 ~~physician's~~ assistants, and up to \$20,000 per year for
 4593 physicians. Penalties for noncompliance shall be the same as
 4594 those in the National Health Services Corps Loan Repayment
 4595 Program. Educational expenses include costs for tuition,
 4596 matriculation, registration, books, laboratory and other fees,
 4597 other educational costs, and reasonable living expenses as
 4598 determined by the Department of Health.

4599 Section 116. Subsection (2) of section 1009.66, Florida

4600 Statutes, is amended to read:

4601 1009.66 Nursing Student Loan Forgiveness Program.—

4602 (2) To be eligible, a candidate must have graduated from
 4603 an accredited or approved nursing program and have received a
 4604 Florida license as a licensed practical nurse or a registered
 4605 nurse or a Florida certificate as an advanced practice
 4606 registered nurse ~~practitioner~~.

4607 Section 117. Subsection (3) of section 1009.67, Florida
 4608 Statutes, is amended to read:

4609 1009.67 Nursing scholarship program.—

4610 (3) A scholarship may be awarded for no more than 2 years,
 4611 in an amount not to exceed \$8,000 per year. However, registered
 4612 nurses pursuing a graduate degree for a faculty position or to
 4613 practice as an advanced practice registered nurse ~~practitioner~~
 4614 may receive up to \$12,000 per year. These amounts shall be
 4615 adjusted by the amount of increase or decrease in the Consumer
 4616 Price Index for All Urban Consumers published by the United
 4617 States Department of Commerce.


4618 Section 118. Except as otherwise expressly provided in
 4619 this act and except for this section, which shall take effect
 4620 upon this act becoming a law, this act shall take effect July 1,
 4621 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 1231 Agricultural Practices

SPONSOR(S): Ways & Means Committee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dugan RD	Langston 

SUMMARY ANALYSIS

The proposed committee substitute amends laws relating to registration fees and license taxes in the agricultural industry.

The bill revises eligibility requirements for restricted license plates for certain not-for-hire trucks used only for transporting raw, unprocessed, and non-manufactured agricultural and horticultural products within 150 miles of the truck owner's home address. The bill removes the 150 mile restriction.

The bill also eliminates supplemental fees required each year for certain brands of pesticide delivered, sold, or transported in the state.

The Revenue Estimating Conference estimated the following fiscal impacts from the provisions of the proposed committee substitute:

- The provisions related to the agricultural restricted license plate have a negative insignificant fiscal impact on state trust funds; and
- The provisions related to the pesticide fee have a negative recurring impact of \$1.7 million on the General Inspection Trust Fund and a negative recurring impact of \$0.2 million on the General Revenue Fund.

The proposed committee substitute has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Agricultural Restricted License Plate

Current Situation

Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes.¹ The amount of the fee depends of the type and size of the vehicle. For example, a truck tractor or heavy truck with a gross vehicle weight less than 44,000 pounds is required to pay a license tax up to \$405 on an annual basis.² A truck tractor or heavy truck with a gross vehicle weight of 44,000 pounds or more will pay, at a minimum, \$773 in license taxes each year.³

In addition, current law provides a restricted license plate for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150 mile radius of its home address.⁴ The annual license tax for a vehicle that acquires this restricted license plate is a reduced amount compared to a vehicle with a comparable weight that does not engage in such transportation activities. The law sets forth the following fees for the restricted license plate:

- \$87.75 flat, if the vehicle's declared gross vehicle weight is less than 44,000 pounds.
- \$324 flat, if the vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to:
 - The point of primary manufacture;
 - The point of assembling the same; or
 - A shipping point by rail, water or motor transportation company.⁵

In this context "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw unprocessed, and non-manufactured agricultural or horticultural product, or the user of farm implements and fertilizer being delivered.⁶

Proposed Changes

The proposed committee substitute revises the eligibility requirement for the agricultural restricted license plate by removing the 150 mile radius of its home address restriction, and instead allows truck tractors or heavy tracks that operate within the state of Florida to be eligible for the restricted license plate.

Pesticide Registration

Current Situation

Effective January 1, 2009, each brand of pesticide⁷ distributed, sold, or offered for sale, except as otherwise provided, within the state or delivered for transportation or transported in intrastate

¹ s. 320.08, F.S.

² s. 320.08(4)(h), F.S.

³ s. 320.08(4)(i), F.S.

⁴ s. 320.08(4)(n), F.S.

⁵ s. 320.08(4)(n), F.S.

⁶ s. 320.08(4)(n), F.S.

⁷ Section 487.021(49), F.S., defines the term "pesticide" as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term does not include any article

commerce or between points within this state through any point outside this state, must be registered with the Department of Agriculture and Consumer Services (department) and is subject to a biennial registration fee.⁸ The department assesses each pesticide registration beginning in an odd-numbered year a fee of \$700 per brand of pesticide, and a fee of \$200 for each special local need label and experimental use permit.⁹ The registration expires on December 31 of the following year.¹⁰ The department assesses each pesticide registration beginning in an even-numbered year a fee of \$350 per brand of pesticide, and fee of \$100 for each special local need label and experimental use permit.¹¹ That registration expires on December 31 of that year.¹²

In 2009, the Legislature defrayed the expense of the Chemical Residue Laboratory by creating a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit in 40 C.F.R. part 180.¹³ The law requires the department to biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental fee.¹⁴ The department assesses each registration beginning in an odd-numbered year a supplemental registration fee of \$630 per brand of pesticide that is subject to the supplemental fee,¹⁵ and assesses each registration beginning a supplemental registration fee of \$315 in an even-numbered year per brand of pesticide that is subject to the supplemental fee.¹⁶

The revenue from these two fees, less those costs determined by the department to be nonrecurring or one-time costs, must be deferred over the two year registration period, deposited in the General Inspection Trust Fund, and used by the department to carry out the provisions of the Florida Pesticide Law.¹⁷ Revenues collected from the supplemental fee may also be used by the department to test pesticides for food safety.¹⁸

The Bureau of Chemical Residue Laboratories within the Division of Food Safety is responsible for the chemical analysis of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.¹⁹ For food safety purposes, the Chemical Residue Laboratory uses the laboratory for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines adopted by the state for raw agricultural produce.²⁰ The department operates the Chemical Residue Laboratory in Tallahassee.²¹ This is the only state laboratory in Florida dedicated to chemical residue analysis in foods.²²

Proposed Changes

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180 by repealing

that is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act, has been determined by the Secretary of the US Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act.

⁸ s. 487.041(1), F.S.

⁹ s. 487.041(1)(c), F.S.

¹⁰ s. 487.041(1)(c), F.S.

¹¹ s. 487.041(1)(c), F.S.

¹² s. 487.041(1)(c), F.S.

¹³ s. 32, ch. 2009-66, Laws of Fla.

¹⁴ s. 487.041(1)(d)1., F.S.

¹⁵ s. 487.041(1)(d)2., F.S.

¹⁶ s. 487.041(1)(d)2., F.S.

¹⁷ s. 487.041(1)(e), F.S.

¹⁸ s. 487.041(1)(e), F.S.

¹⁹ DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

²⁰ DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

²¹ DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

²² DACS, *Agency Analysis of 2016 House Bill 4035*, p. 1 (February 21, 2017).

paragraph 487.041(1)(d), F.S., and removing references to the supplemental fee throughout the section.

Effective Date

The proposed committee substitute has an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.08, F.S., related to license taxes.

Section 2 Amends s. 487.041, F.S., related to pesticide registration.

Section 3 Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated the following fiscal impacts from the provisions of the proposed committee substitute:

- The provisions related to the agricultural restricted license plate have an insignificant fiscal impact; and
- The provisions related to the pesticide fee have a negative recurring impact of \$1.7 million on the General Inspection Trust Fund and a negative recurring impact of \$0.2 million on the General Revenue Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the distance that the agricultural restricted license plates are authorized to travel may reduce the costs associated with shipping agricultural products outside of the 150 mile radius.

According to the Department Agriculture and Consumer Services, removal of the supplemental pesticide fee will produce an average recurring savings of \$1,919,337.84 affecting 1,478 pesticide registrants in the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This proposed committee substitute does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to agricultural practices; amending s.
 3 320.08, F.S.; revising the circumstances under which a
 4 truck tractor or heavy truck engaged in transporting
 5 certain agricultural or horticultural products is
 6 eligible for a restricted license plate for a fee;
 7 amending s. 487.041, F.S.; deleting a requirement that
 8 registrants pay a supplemental fee for pesticides that
 9 contain an active ingredient for which the United
 10 States Environmental Protection Agency has established
 11 a food tolerance limit; conforming provisions to
 12 changes made by the act; deleting obsolete provisions;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraph (n) of subsection (4) of section
 18 320.08, Florida Statutes, is amended to read:

19 320.08 License taxes.—Except as otherwise provided herein,
 20 there are hereby levied and imposed annual license taxes for the
 21 operation of motor vehicles, mopeds, motorized bicycles as
 22 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
 23 and mobile homes as defined in s. 320.01, which shall be paid to
 24 and collected by the department or its agent upon the
 25 registration or renewal of registration of the following:

26 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
27 VEHICLE WEIGHT.-

28 (n) A truck tractor or heavy truck, not operated as a for-
29 hire vehicle, which is engaged exclusively in transporting raw,
30 unprocessed, and nonmanufactured agricultural or horticultural
31 products within the state ~~a 150-mile radius of its home address,~~
32 is eligible for a restricted license plate for a fee of:

33 1. If such vehicle's declared gross vehicle weight is less
34 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
35 deposited into the General Revenue Fund.

36 2. If such vehicle's declared gross vehicle weight is
37 44,000 pounds or more and such vehicle only transports from the
38 point of production to the point of primary manufacture; to the
39 point of assembling the same; or to a shipping point of a rail,
40 water, or motor transportation company, \$324 flat, of which \$84
41 shall be deposited into the General Revenue Fund.

42
43 Such not-for-hire truck tractors and heavy trucks used
44 exclusively in transporting raw, unprocessed, and
45 nonmanufactured agricultural or horticultural products may be
46 incidentally used to haul farm implements and fertilizers
47 delivered direct to the growers. The department may require any
48 documentation deemed necessary to determine eligibility prior to
49 issuance of this license plate. For the purpose of this
50 paragraph, "not-for-hire" means the owner of the motor vehicle

51 | must also be the owner of the raw, unprocessed, and
 52 | nonmanufactured agricultural or horticultural product, or the
 53 | user of the farm implements and fertilizer being delivered.

54 | Section 2. Paragraphs (d) through (j) of subsection (1)
 55 | and subsection (2) of section 487.041, Florida Statutes, are
 56 | amended to read:

57 | 487.041 Registration.—

58 | (1)

59 | ~~(d)1. Effective January 1, 2009, in addition to the fees~~
 60 | ~~assessed pursuant to paragraphs (b) and (c), for the purpose of~~
 61 | ~~defraying the expenses of the department for testing pesticides~~
 62 | ~~for food safety, each registrant shall pay a supplemental~~
 63 | ~~biennial registration fee for each registered brand of pesticide~~
 64 | ~~that contains an active ingredient for which the United States~~
 65 | ~~Environmental Protection Agency has established a food tolerance~~
 66 | ~~limit in 40 C.F.R. part 180. The department shall biennially~~
 67 | ~~publish by rule a list of the pesticide active ingredients for~~
 68 | ~~which a brand of pesticide is subject to the supplemental~~
 69 | ~~registration fee.~~

70 | ~~2. Each registration issued by the department to a~~
 71 | ~~registrant for a period beginning in an odd-numbered year shall~~
 72 | ~~be assessed a supplemental registration fee of \$630 per brand of~~
 73 | ~~pesticide that is subject to the fee pursuant to subparagraph 1.~~
 74 | ~~Each registration issued by the department to a registrant for a~~
 75 | ~~period beginning in an even-numbered year shall be assessed a~~

76 ~~supplemental registration fee of \$315 per brand of pesticide~~
 77 ~~that is subject to the fee pursuant to subparagraph 1. The~~
 78 ~~department shall retroactively assess the supplemental~~
 79 ~~registration fee for each brand of pesticide that registered on~~
 80 ~~or after January 1, 2009, and that is subject to the fee~~
 81 ~~pursuant to subparagraph 1.~~

82 (d)~~(e)~~ All revenues collected, less those costs determined
 83 by the department to be nonrecurring or one-time costs, shall be
 84 deferred over the 2-year registration period, deposited in the
 85 General Inspection Trust Fund, and used by the department in
 86 carrying out the provisions of this chapter. ~~Revenues collected~~
 87 ~~from the supplemental registration fee may also be used by the~~
 88 ~~department for testing pesticides for food safety.~~

89 (e)~~(f)~~ If the renewal of a brand of pesticide, including
 90 the special local need label and experimental use permit, is not
 91 filed by January 31 of the renewal year, an additional fee of
 92 \$25 per brand of pesticide shall be assessed per month and added
 93 to the original fee. This additional fee may not exceed \$250 per
 94 brand of pesticide. The additional fee must be paid by the
 95 registrant before the renewal certificate for the registration
 96 of the brand of pesticide is issued. The additional fee shall be
 97 deposited into the General Inspection Trust Fund.

98 (f)~~(g)~~ This subsection does not apply to distributors or
 99 retail dealers selling brands of pesticide if such brands of
 100 pesticide are registered by another person.

101 (g)~~(h)~~ All registration fees, including ~~supplemental fees~~
 102 ~~and~~ late fees, are nonrefundable.

103 (h)~~(i)~~ For any currently registered pesticide product
 104 brand that undergoes labeling revisions during the registration
 105 period, the registrant shall submit to the department a copy of
 106 the revised labeling along with a cover letter detailing such
 107 revisions before the sale or distribution in this state of the
 108 product brand with the revised labeling. If the labeling
 109 revisions require notification of an amendment review by the
 110 United States Environmental Protection Agency, the registrant
 111 shall submit an additional copy of the labeling marked to
 112 identify those revisions.

113 (i)~~(j)~~ ~~Effective January 1, 2013,~~ All payments of any
 114 pesticide registration fees, including ~~supplemental fees and~~
 115 late fees, shall be submitted electronically using the
 116 department's Internet website for registration of pesticide
 117 product brands.

118 (2) The department shall adopt rules governing the
 119 procedures for the registration of a brand of pesticide and~~r~~ for
 120 the review of data submitted by an applicant for registration of
 121 the brand of pesticide, ~~and for biennially publishing the list~~
 122 ~~of active ingredients for which a brand of pesticide is subject~~
 123 ~~to the supplemental registration fee pursuant to subparagraph~~
 124 ~~(1)(d)1.~~ The department shall determine whether the brand of
 125 pesticide should be registered, registered with conditions, or

126 tested under field conditions in this state. The department
 127 shall determine whether each request for registration of a brand
 128 of pesticide meets the requirements of current state and federal
 129 law. The department, whenever it deems it necessary in the
 130 administration of this part, may require the manufacturer or
 131 registrant to submit the complete formula, quantities shipped
 132 into or manufactured in the state for distribution and sale,
 133 evidence of the efficacy and the safety of any pesticide, and
 134 other relevant data. The department may review and evaluate a
 135 registered pesticide if new information is made available that
 136 indicates that use of the pesticide has caused an unreasonable
 137 adverse effect on public health or the environment. Such review
 138 shall be conducted upon the request of the State Surgeon General
 139 in the event of an unreasonable adverse effect on public health
 140 or the Secretary of Environmental Protection in the event of an
 141 unreasonable adverse effect on the environment. Such review may
 142 result in modifications, revocation, cancellation, or suspension
 143 of the registration of a brand of pesticide. The department, for
 144 reasons of adulteration, misbranding, or other good cause, may
 145 refuse or revoke the registration of the brand of any pesticide
 146 after notice to the applicant or registrant giving the reason
 147 for the decision. The applicant may then request a hearing,
 148 pursuant to chapter 120, on the intention of the department to
 149 refuse or revoke registration, and, upon his or her failure to
 150 do so, the refusal or revocation shall become final without

151 further procedure. The registration of a brand of pesticide may
152 not be construed as a defense for the commission of any offense
153 prohibited under this part.

154 Section 3. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-04 Homestead Exemption
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dobson <i>MO</i>	Langston <i>LS</i>

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

This joint resolution proposes an amendment to the Florida Constitution to increase by up to \$25,000 the current homestead exemption from non-school property taxes by exempting the assessed value between \$75,000 and up to \$100,000.

Subject to approval by 60 percent of voters during the 2018 general election or earlier special election, the amendment proposed in the joint resolution will take effect on January 1, 2019. The joint resolution is not subject to the governor's veto powers.

The Revenue Estimating Conference has determined that if the constitutional amendment is approved by the voters, non-school property tax revenues could be reduced by -\$752.7 million annually, assuming current tax rates. Revenue impacts would not begin until fiscal year 2019-20.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES

Present Situation

Calculating Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the “just” or fair market value of real and tangible property as determined by county property appraisers on January 1 of each year.² Fair market value is then adjusted by any applicable exceptions to the just value requirement such as the annual “save our homes” limitation on homestead property assessment increases.³ The value arrived at after accounting for just value exceptions is known as the assessed value. Property Appraisers then calculate taxable value by reducing the assessed value in accordance with any applicable exemption(s), such as the exemptions for homestead property.⁴ Each year, local governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

Homestead Exemptions

The homestead exemption is specified in Article VII, Section 6 of the Florida Constitution, which provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves or a legal or natural dependent is entitled to exemption from taxes on the first \$25,000 in assessed value.⁵ In 2008, Florida voters amended this provision to include an additional \$25,000 exemption from all taxes other than school district taxes on assessed value greater than \$50,000.⁶ The constitution also vests the legislature with authority to enact general law establishing the manner in which individuals qualify for exemption. Accordingly, s. 196.031(1)(b), F.S. automatically grants the additional, non-school homestead exemption to every individual who qualifies for the initial homestead exemption on the first \$25,000 in assessed value.

Effect of Proposed Changes

This joint resolution proposes to amend Article VII, Section 6(a) of the Florida Constitution to increase by up to \$25,000 the current homestead exemption from non-school property taxes by exempting the assessed value between \$75,000 and up to \$100,000. Approving the joint resolution will place the amendment on the ballot during either the 2018 general election or an earlier special election held for the purpose of proposing this amendment to the voters.⁷ Pending voter approval, the amendment will take effect on January 1, 2019.

¹ Fla. Const. art. VII, s. 1(a).

² See Fla. Const. art. VII, s. 4.

³ See s. 193.155(3), F.S.

⁴ See generally, s. 196.031, F.S.

⁵ Fla. Const. art. VII s. 6.

⁶ *Id.*

⁷ Note: Pursuant to article XI, Section 5 of the Florida Constitution, placing the joint resolution on a special election ballot would require the legislature to pass a general law by 3/4ths vote of each house.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

However, based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be approximately \$133,783.28. This would be paid from non-recurring General Revenue Funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference determined that because the constitutional amendment must first be approved by the voters, the joint resolution will have either a zero or negative indeterminate impact. However, the conference has determined that if the constitutional amendment is approved by the voters, non-school property tax revenues could be reduced by -\$752.7 million annually, assuming current tax rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment is adopted, staff estimates that beginning in fiscal year 2019-20, homestead property owners will realize lower property taxes than would otherwise occur.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of Section 37 of Article XII of the State Constitution to increase the homestead exemption by exempting the assessed valuation of homestead property greater than \$75,000 and up to \$100,000 for all levies other than school district levies, and to provide an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of Section 37 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five

26 thousand dollars and, for all levies other than school district
 27 levies, on the assessed valuation greater than fifty thousand
 28 dollars and up to one hundred ~~seventy-five~~ thousand dollars,
 29 upon establishment of right thereto in the manner prescribed by
 30 law. The real estate may be held by legal or equitable title, by
 31 the entires, jointly, in common, as a condominium, or
 32 indirectly by stock ownership or membership representing the
 33 owner's or member's proprietary interest in a corporation owning
 34 a fee or a leasehold initially in excess of ninety-eight years.
 35 The exemption shall not apply with respect to any assessment
 36 roll until such roll is first determined to be in compliance
 37 with the provisions of section 4 by a state agency designated by
 38 general law. This exemption is repealed on the effective date of
 39 any amendment to this Article which provides for the assessment
 40 of homestead property at less than just value.

41 (b) Not more than one exemption shall be allowed any
 42 individual or family unit or with respect to any residential
 43 unit. No exemption shall exceed the value of the real estate
 44 assessable to the owner or, in case of ownership through stock
 45 or membership in a corporation, the value of the proportion
 46 which the interest in the corporation bears to the assessed
 47 value of the property.

48 (c) By general law and subject to conditions specified
 49 therein, the Legislature may provide to renters, who are
 50 permanent residents, ad valorem tax relief on all ad valorem tax

51 levies. Such ad valorem tax relief shall be in the form and
 52 amount established by general law.

53 (d) The legislature may, by general law, allow counties or
 54 municipalities, for the purpose of their respective tax levies
 55 and subject to the provisions of general law, to grant either or
 56 both of the following additional homestead tax exemptions:

57 (1) An exemption not exceeding fifty thousand dollars to a
 58 person who has the legal or equitable title to real estate and
 59 maintains thereon the permanent residence of the owner, who has
 60 attained age sixty-five, and whose household income, as defined
 61 by general law, does not exceed twenty thousand dollars; or

62 (2) An exemption equal to the assessed value of the
 63 property to a person who has the legal or equitable title to
 64 real estate with a just value less than two hundred and fifty
 65 thousand dollars, as determined in the first tax year that the
 66 owner applies and is eligible for the exemption, and who has
 67 maintained thereon the permanent residence of the owner for not
 68 less than twenty-five years, who has attained age sixty-five,
 69 and whose household income does not exceed the income limitation
 70 prescribed in paragraph (1).

71
 72 The general law must allow counties and municipalities to grant
 73 these additional exemptions, within the limits prescribed in
 74 this subsection, by ordinance adopted in the manner prescribed
 75 by general law, and must provide for the periodic adjustment of

76 the income limitation prescribed in this subsection for changes
 77 in the cost of living.

78 (e) Each veteran who is age 65 or older who is partially
 79 or totally permanently disabled shall receive a discount from
 80 the amount of the ad valorem tax otherwise owed on homestead
 81 property the veteran owns and resides in if the disability was
 82 combat related and the veteran was honorably discharged upon
 83 separation from military service. The discount shall be in a
 84 percentage equal to the percentage of the veteran's permanent,
 85 service-connected disability as determined by the United States
 86 Department of Veterans Affairs. To qualify for the discount
 87 granted by this subsection, an applicant must submit to the
 88 county property appraiser, by March 1, an official letter from
 89 the United States Department of Veterans Affairs stating the
 90 percentage of the veteran's service-connected disability and
 91 such evidence that reasonably identifies the disability as
 92 combat related and a copy of the veteran's honorable discharge.
 93 If the property appraiser denies the request for a discount, the
 94 appraiser must notify the applicant in writing of the reasons
 95 for the denial, and the veteran may reapply. The Legislature
 96 may, by general law, waive the annual application requirement in
 97 subsequent years. This subsection is self-executing and does not
 98 require implementing legislation.

99 (f) By general law and subject to conditions and
 100 limitations specified therein, the Legislature may provide ad

101 | valorem tax relief equal to the total amount or a portion of the
 102 | ad valorem tax otherwise owed on homestead property to:

103 | (1) The surviving spouse of a veteran who died from
 104 | service-connected causes while on active duty as a member of the
 105 | United States Armed Forces.

106 | (2) The surviving spouse of a first responder who died in
 107 | the line of duty.

108 | (3) A first responder who is totally and permanently
 109 | disabled as a result of an injury or injuries sustained in the
 110 | line of duty. Causal connection between a disability and service
 111 | in the line of duty shall not be presumed but must be determined
 112 | as provided by general law. For purposes of this paragraph, the
 113 | term "disability" does not include a chronic condition or
 114 | chronic disease, unless the injury sustained in the line of duty
 115 | was the sole cause of the chronic condition or chronic disease.
 116 |

117 | As used in this subsection and as further defined by general
 118 | law, the term "first responder" means a law enforcement officer,
 119 | a correctional officer, a firefighter, an emergency medical
 120 | technician, or a paramedic, and the term "in the line of duty"
 121 | means arising out of and in the actual performance of duty
 122 | required by employment as a first responder.

123 | ARTICLE XII

124 | SCHEDULE

125 SECTION 37. Increased homestead exemption.—This section
 126 and the amendment to Section 6 of Article VII increasing the
 127 homestead exemption by exempting the assessed valuation of
 128 homestead property greater than \$75,000 and up to \$100,000 for
 129 all levies other than school district levies shall take effect
 130 January 1, 2019.

131 BE IT FURTHER RESOLVED that the following statement be
 132 placed on the ballot:

133 CONSTITUTIONAL AMENDMENT

134 ARTICLE VII, SECTION 6

135 ARTICLE XII, SECTION 37

136 INCREASED HOMESTEAD PROPERTY TAX EXEMPTION.—Proposing an
 137 amendment to the State Constitution to increase the homestead
 138 exemption by exempting the assessed valuation of homestead
 139 property greater than \$75,000 and up to \$100,000 for all levies
 140 other than school district levies. The amendment shall take
 141 effect January 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-06 Taxation
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Aldridge <i>A</i>	Langston <i>LS</i>

SUMMARY ANALYSIS

Proposed committee bill 17-06 (PCB) provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration.

The PCB contains several provisions related to sales tax. The PCB:

- Reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 4.5% for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6% to 5.5% beginning January 1, 2020.
- Includes new, extended, or expanded sales tax exemptions for:
 - Diapers and incontinence products;
 - Feminine hygiene products;
 - Certain animal health products and other agricultural related items;
 - Certain resales of admissions;
 - Certain sales made between certain financial institutions and related parties; and
 - Sales of college textbooks and instructional materials for one year.
- The PCB includes the following sales tax holidays:
 - A ten-day "back-to-school" holiday for clothing, footwear, school supplies, and computers;
 - A nine-day "disaster preparedness" holiday for certain items related to disaster preparedness; and
 - An annual one-day "veterans" holiday for purchases of clothing and footwear.

For property tax purposes, the PCB provides property tax relief for certain property used to provide affordable housing, amends the definition of inventory to include certain construction and agricultural equipment, and clarifies the documentation required to obtain an exemption for certain nonprofit homes for the aged.

For corporate income tax, the PCB:

- Increases the annual tax credits available for voluntary brownfields clean-up from \$5 million per year to \$10 million per year and provides an additional \$15 million for FY 2017-18 and increases the amount available for research and development tax credits in calendar year 2018 from \$9 million to \$20 million.
- Extends the Community Contribution Tax Credit program by one year, through FY 2018-19, while maintaining the current funding level of \$24.9 million in tax credits (also may be taken against sales tax and insurance premiums tax).
- Changes filing dates for certain income tax returns and certain estimated tax payments.

Further changes in the PCB include: various changes to accomplish general tax administration improvements; elimination of several tax registration fees; exempting highway safety taxes and fees for certain marine boat trailers owned by ch. 501(c)(3) organizations; amending the definition of "beer" and "malt beverage"; and the repeal of certain distributions from the cigarette tax.

The total impact of the PCB in fiscal year 2017-2018 is -\$296.3 million (-\$276.0 million recurring). See FISCAL COMMENTS section for details.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/4/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (78.5 percent for FY 2016-17)¹ and is administered by the Department of Revenue (DOR) under chapter 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.² Sales tax is due at the rate of six percent on the total rent paid for the right to use or occupy commercial real property and county sales surtax can also be levied on total rent.³ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the business rent tax in 2014.⁴

Proposed Changes

The PCB reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 4.5% for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6% to 5.5% beginning January 1, 2020.

¹ FLORIDA REVENUE ESTIMATING CONFERENCE, 2017 FLORIDA TAX HANDBOOK (2017).

² Ch. 1969-222, Laws of Fla.

³ s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

⁴ Office of Economic and Demographic Research, Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014).

Sales Tax on Admissions

Current Situation

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of six percent of sales price or the actual value received from admissions. Admissions are defined⁵ as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

Several exceptions and exemptions exist,⁶ such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profit organizations;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Admissions to certain professional and collegiate sports all-star and championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Generally, sales of tangible personal property made for resale are exempt from sales tax.⁷ This treatment does not apply to sales of taxable admissions.⁸

Proposed Changes

The PCB provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The PCB allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from the DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from the DOR.

College or University Textbooks Sales Tax Exemption

Current Situation

In 2015, the Legislature created a one-year sales tax exemption⁹ for textbooks and printed and digital materials required or recommended for a course offered by a public postsecondary educational

⁵ s. 212.02(1), F.S.

⁶ See s. 212.04(2)(a), F.S.

⁷ See the definition of "retail sale" in s. 212.02(14), F.S. Also see s. 212.07, F.S.

⁸ s. 212.04(1)(c), F.S.

⁹ s. 29, ch. 2015-221, Laws of Fla.

institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

Proposed Changes

The PCB exempts the sale of textbooks and instructional materials from July 1, 2017 through June 30, 2018.

Diapers and Incontinence Products Sales Tax Exemption

Current Situation

Certain medical products and supplies are exempt from sales and use tax, including supplies or medicine dispensed according to a prescription and other non-prescription common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease.¹⁰

Alcohol wipes, bandages, and gauze are examples of common household remedies. Cosmetics¹¹ and toilet articles¹² are specifically excluded from the common household remedy exemption, notwithstanding the presence of medicinal ingredients therein. The Department of Business and Professional Regulation (DBPR) is responsible for prescribing and approving a list of common household remedies that qualify for the exemption, which is certified by the DOR from time to time and included in the rules promulgated by the DOR.¹³ Additional items can be added to the list at the discretion of the DBPR or through a process involving a Technical Assistance Advisory Committee.¹⁴

Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.¹⁵ However, diapers are not currently exempt from sales and use tax in Florida.¹⁶

Proposed Changes

Effective January 1, 2018, the PCB creates a sales tax exemption for the following items:

- Diapers;

¹⁰ See s. 212.08(2)(a), F.S.

¹¹ Section 212.08(2)(b)2., F.S., defines “cosmetics” as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

¹² Section 212.08(2)(b)3., F.S., defines “toilet articles” as any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

¹³ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited February 8, 2017).

¹⁴ s. 212.08(14), F.S.

¹⁵ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited February 8, 2017).

¹⁶ However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays. See e.g. Rule 12AER16-01, F.A.C.

- Incontinence undergarments;
- Incontinence pads; and
- Incontinence liners.

Products Used to Control Menstrual Flow Sales Tax Exemption

Current Situation

Products used to absorb menstrual flow are currently subject to state sales and use tax. These products include tampons, sanitary napkins, panty liners, and menstrual cups.

From 1977 through 1986, the sales of products used to absorb menstrual flow in Florida were specifically exempt from sales and use tax.¹⁷ However, the Legislature repealed various sales tax exemptions in 1986, including products used to absorb menstrual flow.¹⁸ The 1986 legislation also created a commission to review the changes made by ch. 1986-166, L.O.F., and to recommend prior to the subsequent legislative session whether to allow the repeal to remain effective. The commission's findings did not specifically address the repeal of the exemption for products used to absorb menstrual flow, but it recommended that all sales tax exemptions not specifically recommended in the report should be repealed.¹⁹

In 2016, a class action lawsuit was filed in Leon County, Florida to challenge the state sales tax levied on the sale of products used to absorb menstrual flow.²⁰ The plaintiffs argue that such products are necessary for women's health and should be exempt as common household remedies. The plaintiffs also argue that the taxation of products used to absorb menstrual flow violates the Equal Protection Clauses of both the Florida and United States Constitutions. The plaintiffs seek declaratory and injunctive relief, along with a refund of taxes. The case is currently pending in circuit court.

Of the 45 states²¹ that currently levy sales and use tax, eight states do not impose the tax on the sale of products used to absorb menstrual flow. Illinois,²² Maryland,²³ Massachusetts,²⁴ Pennsylvania,²⁵ Minnesota,²⁶ New Jersey,²⁷ Connecticut,²⁸ and New York²⁹ have passed legislation to specifically exempt these products from sales and use tax.

Proposed Changes

Effective January 1, 2018, the PCB creates a sales tax exemption for products used to absorb menstrual flow.

¹⁷ Ch. 77-193, Laws of Fla.

¹⁸ Ch. 86-166, Laws of Fla.

¹⁹ Sales Tax Exemption Study Commission, *Report and Recommendations of the Sales Tax Exemption Study Commission* (April, 1987).

²⁰ *Wendell v. Florida Dep't. of Rev.*, No. 2016 CA 001526 (Fla. Leon Cty. Ct. July 7, 2016).

²¹ Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose state sales tax.

²² 35 Ill. Comp. Stat. 110/3-5 (2016).

²³ Md. Tax-Gen. Code Ann., §11-211 (2016).

²⁴ Mass. Gen. Laws ch. 64H, § 6 (2016).

²⁵ 72 Pa. Cons. Stat. § 7204 (2016).

²⁶ Minn. Stat. §297A.67 (2016).

²⁷ N.J. Stat. Ann. § 54:32B-8.1 (2016).

²⁸ Conn. Gen. Stat. § 12-412 (2016).

²⁹ N.Y. Tax Law §1115 (2016).

Agriculture-Related Sales Tax Exemptions

Current Situation

Current law exempts specified items for agricultural use from sales and use tax.³⁰ For example, disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock are exempt. To obtain the exemption, the purchaser must sign a certificate stating that the item to be exempted is for the exclusive use designated in statute.³¹

In addition, current law exempts the purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed veterinarian, and which are applied to or consumed by animals for alleviation of pain or the cure or prevention of sickness, disease, or suffering are exempt.³² However, the exemption is not allowed if these health products are not purchased by a veterinarian. It is common in the livestock and poultry industry for such health products to be purchased from farm supply stores or directly from the manufacturer.

Further, current law exempts from sales tax the portion of the sales price below \$20,000 for a trailer that weighs 12,000 pounds or less that is purchased by a farmer. The trailer must be used exclusively in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.³³

Proposed Changes

Effective July 1, 2017, the PCB adds the following to the list of items in agricultural use that are exempt from the sales and use tax:

- Hog wire and nylon mesh netting used on a farm for protection from predatory or destructive animals;
- Barbed wire fencing, including gates and materials used to construct or repair such fencing, used on a beef or dairy cattle farm;
- Compressed or liquefied oxygen used in aquaculture production;
- Aquaculture health products; and
- Animal health products which are applied to, administered to, or consumed by livestock or poultry for alleviation of pain or the cure or prevention of sickness, disease, or suffering, including:
 - Antiseptics,
 - Absorbent cotton,
 - Gauze for bandages,
 - Lotions,
 - Vaccines,
 - Vitamins, and
 - Worm remedies.

For purposes of the exemptions for animal health products and aquaculture health products, the PCB provides that this exemption is remedial in nature and applies retroactively, but does not create a right to a refund or credit of any tax paid before the effective date of the PCB.

³⁰ s. 212.08(5)(a), F.S.

³¹ s. 212.08(5)(a), F.S.

³² s. 212.08(2)(h), F.S.

³³ s. 212.08(3)(b), F.S.

The PCB also increases from \$20,000 to \$25,000 the portion of the sales price that tax may not be imposed on for certain farm trailers purchased by a farmer. The trailer must be used exclusively in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 20 temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a "back to school" sales tax holiday 15 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back-to-school sales tax holidays in Florida:

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7 - 16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5 - 7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less

Hurricanes and Disasters in Florida--In 2016, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$1 billion due to hurricanes Hermine and Mathew in 2016,³⁴ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four in 2005.³⁵ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.³⁶ The Florida Division of Emergency Management (DEM) recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.³⁷

Veterans in Florida--Florida is home to almost 1.6 million veterans.³⁸ Florida also has 20 major military installations, with eight having a Military Exchange on base.³⁹ Military Exchanges sell consumer goods and services tax free. However, not every veteran can shop at Exchanges. Generally, only retirees and 100 percent disabled veterans have Exchange privileges. Recently, the Department of Defense announced a policy change in January, 2017, that will extend limited online military exchange shopping privileges to all honorably discharged veterans starting on November 11, 2017.⁴⁰

Proposed Changes

The PCB establishes a temporary disaster preparedness sales tax holiday in fiscal year (FY) 2016-17, a temporary back-to-school sales tax holiday in FY 2017-18, and an annual sales tax holiday for clothing purchased by veterans beginning in FY 2017-18.

Back-to-School Holiday--The PCB provides for a ten-day sales tax holiday from August 4, 2017, through August 13, 2017. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The PCB also exempts "school supplies" that cost \$15 or less per item during the holiday.

Also exempt will be the first \$1,000 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

Disaster Preparedness Sales Tax Holiday-- The PCB provides for a nine day sales tax holiday from May 27, 2017, through June 4, 2017, for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;

³⁴ Florida Office of Insurance Regulation, Florida Office of Insurance Regulation Catastrophe Report, <http://www.floir.com/Sections/PandC/ProductReview/CatastropheReporting.aspx> (last visited March 17, 2017).

³⁵ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited March 17, 2017).

³⁶ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf> (last visited March 17, 2017)

³⁷ Florida Division of Emergency Management, *Disaster Supply Kit*, <http://www.floridadisaster.org/supplykit.htm> (last visited Jan. 22, 2014).

³⁸ https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_Florida.pdf

³⁹ Military Exchange store locator, available at: <https://www.shopmyexchange.com/exchange-stores> (last visited January 30, 2017).

⁴⁰ U.S. Department of Defense press release, *Department of Defense Extends Online Military Exchange Shopping Privileges to Veterans*, available at <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1049503/department-of-defense-extends-online-military-exchange-shopping-privileges-to-v> (last visited January 30, 2017).

- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

Veterans' Sales Tax Holiday-- The PCB provides an annual one-day sales tax holiday on November 11 of each year, beginning in FY 2017-18. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes when sold to a veteran:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs); and
- Footwear (excluding skis, swim fins, roller blades, and skates).

The PCB defines a veteran as any person who served in the active military, naval, or air service and who was honorably discharged or who later received an upgraded honorable discharge. To be eligible for the sales tax holiday, a veteran must show proof of military status at the time he or she purchases the eligible items by presenting a DD Form 2, DD Form 2765, DD Form 214, veteran identification card, veteran health identification card, a valid driver license with the "V" or word "veteran" designation on it, or any other proof of veteran status issued by the Department of Highway Safety and Motor Vehicles.

The sales tax holidays in the PCB do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The PCB allows the "back to school" and "veterans'" sales tax holidays to apply at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by November 1 each year for the veterans' holiday, and by August 1, 2017 for the back to school tax holiday, the dealer must notify the DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The PCB authorizes the DOR to adopt emergency rules to implement the provisions of each holiday.

Sales Tax on Certain Related Party Sales

Current Situation

Generally speaking, there is no exemption for sales of taxable tangible personal property or services from a dealer to a related party.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010⁴¹ (Dodd-Frank) requires that certain large banks and insurers ("systemically important financial institutions")(hereinafter referred to as financial institutions) periodically submit recovery & resolution plans to the Federal Reserve and the Federal Deposit Insurance Corporation.⁴² Each plan must describe the financial institution's strategy for

⁴¹ Pub.L. 111-203, H.R. 4173.

⁴² 12 U.S.C. s. 5365(d)(1).

recovery from a financial crisis, as well as its rapid and orderly resolution in the event of material financial distress or failure of the financial institution.

Under most plans, the financial institution is required to create a Shared Services Entity (SSE) to provide all of the support services that are currently provided by employees of the financial institution.⁴³ The purpose of an SSE is to separate and insulate these support services, including customer support functions, from the investment and asset management side of the financial institution, thus ensuring that these support services will continue to be provided despite major losses elsewhere in the business.

Because SSE's will be separate legal entities from the affected financial institutions, sales of taxable tangible personal property or services by SSEs to affected financial institutions will be subject to sales tax in Florida.

Proposed Changes

The PCB provides an exemption for sales of tangible personal property or services otherwise taxable under ch. 212, F.S. by a dealer to a related party where the purchaser can show that:

- The vendor and the purchaser are either:
 - Referenced as either a "covered company," as described in 12 C.F.R. s. 243.2(f), or a "material entity," as described in 12 C.F.R. s. 243.2(l), in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying the Dodd Frank Act or any successor law, or
 - Separate legal entities pursuant to a divestiture directed pursuant to the Dodd Frank Act or any successor law; and
- The sale would not have occurred between such related entities were it not for such resolution plan or divestiture;
- The services sold by the vendor to the purchaser are performed by an employee of the vendor, or by an independent contractor hired by the vendor where the vendor paid the tax imposed under this chapter; and
- In acquiring such property or services, the vendor did not claim an exemption from the tax imposed under this chapter or by another state.

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.⁴⁴ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.⁴⁵ After certain addbacks and subtractions to federal taxable income required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.⁴⁶ The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.⁴⁷ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.⁴⁸

⁴³ U.S.C. s. 5365(d)(5).

⁴⁴ s. 220.11, F.S.

⁴⁵ s. 220.12, F.S.

⁴⁶ s. 220.15, F.S.

⁴⁷ s. 220.15, F.S.

⁴⁸ s. 220.14, F.S.

Estimated Payments

Current Situation

Section 220.24, F.S., requires each corporate income taxpayer to declare its estimated tax for the taxable year, if the amount payable as estimated tax can be expected to be more than \$2,500. Section 220.33, F.S., requires these taxpayers to pay estimated taxes in equal installments, depending upon when they are required to file their declarations of estimated taxes. The payments are due before the first day of specified months, including the 7th month of the taxable year, which for calendar-year corporations is also the first month of the state's fiscal year. Most taxpayers choose to use the calendar year as their "taxable year." In 2014⁴⁹, 84.4 percent of corporate income tax filers were calendar year taxpayers. In that same year, 76.5 percent of total corporate income tax collections were from calendar year taxpayers.

If the day on which an estimated payment due is a Saturday, Sunday, or legal holiday, payments made on that day will not be credited to the state until the following business day. Under this circumstance, estimated payments due before July 1 will fall into the next state fiscal year. Such a circumstance will occur at the end of state FYs 2017-18 and 2018-19.

Proposed Changes

The PCB provides that any estimated tax payment which would otherwise be due on the last Saturday or Sunday of June shall be paid on or before the last Friday of June.

Corporate Income Tax Returns

Current Situation

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,⁵⁰ which contains amendments to the Internal Revenue Code (IRC) regarding the due date for federal corporate income tax returns. Among other things, the federal change amended IRC section 6081(b) to provide that, beginning after 2015, a calendar year C-corporation may extend the time to file its federal corporate income tax return for 5 months.

On February 8, 2017, the Internal Revenue Service revised the instructions for Form 7004 (Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns). The revision reflects a clarification of the length of time a calendar year C-corporation may extend the due date for its federal income tax return. Although the 2015 federal law change to IRC section 6081(b) provides a 5-month extension period for calendar year C-corporations, the 2017 revision to the instructions for Form 7004 clarifies that under IRC section 6081(a) such taxpayer may receive a 6-month extension period.

Under Florida law, the due dates to file corporate income tax returns are generally aligned with federal income tax filing timeframes. When a Florida corporation or partnership is granted an extension of time to file its federal return, the taxpayer may file for an extension of time to file its Florida return.⁵¹ If granted, the extended Florida due date will generally be the 15th day after the expiration of the federal extension, or until the expiration of 6 months from the original due date, whichever occurs first.⁵² For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending on June 30, the extension is the 15th day after the expiration of the federal extension, or until the expiration of 7 months from the original due date; and for taxpayers with a taxable year ending December 31

⁴⁹ 2014 is the most recent year for which complete corporate income tax return data is available.

⁵⁰ Pub.L. No. 114-41, H.R. 3236 (July 31, 2015).

⁵¹ If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.

⁵² Section 220.222(2), F.S.

(calendar year taxpayers), the extension is the 15th day after the expiration of the federal extension, or until the expiration of 5 months from the original due date.

Proposed Changes

The PCB amends s. 220.222(2), F.S., to provide that for taxpayers with a taxable year ending December 31 (calendar year taxpayers), the extension is until the expiration of 6 months from the original due date. This change aligns with the IRS allowance for calendar year taxpayers to receive a 6 month extension to file their federal income tax returns described above.

Corporate Income Tax: Research and Development Credits

Current Situation

Federal Tax Credit-- The "U.S. Research and Experimentation Tax Credit" was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.⁵³ For the 2013 federal tax year, 16,624 companies claimed \$11.3 billion in R&D tax credits, including \$177.1 million claimed via "pass-through" entities.⁵⁴ At \$97.8 billion, manufacturing companies claimed the largest portion of research tax credits.⁵⁵

Florida Tax Credit--Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year's research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to five years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by the DOR during any calendar year is \$9 million. Applications for the credit may be filed with the DOR between March 20th and March 27th for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.

The Legislature passed a one-time increase in the \$9 million cap for research and development tax credits to \$23 million for calendar year 2016.⁵⁶ This cap amount was allocated as follows:

- The DOR received 131 applications during the one week application window, requesting a total of \$52,481,052 in credits.
- 118 applications were approved. Each applicant received approximately 46 percent of the amount of credit determined in their application. These 118 applications requested \$50,447,562 in credit.

⁵³ "The U.S. Research and Experimentation Tax Credit in the 1990s" by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005. Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and "The Prospects for Economic Recovery," prepared by the Congressional Budget Office. Published February 1982. Pertinent information on pages 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on March 22, 2017)

⁵⁴ Internal Revenue Service, Statistics of Income Division, available at: <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 22, 2017).

⁵⁵ Internal Revenue Service, Statistics of Income Division, available at: <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 22, 2017).

⁵⁶ See s. 21, ch. 2015-221, Laws of Fla.

- 13 applications were denied for various reasons, including withdrawal by the taxpayer, duplicate applications, application figures resulting in zero credit requested, and failure to include a required certification letter from the Department of Economic Opportunity (DEO). These 13 applications requested \$2,003,490 in credit.

Proposed Changes

The PCB increases the maximum amount of credits that may be granted in calendar year 2018 from \$9 million to \$20 million.

Voluntary Cleanup Tax Credit Program - Brownfields Tax Credit

Current Situation

In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;⁵⁷
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.⁵⁸

Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, current law also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a \$500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to \$500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to \$500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is \$5 million annually. In the event that approved tax credit applications exceed the \$5 million annual authorization, the statute provides for remaining applications to roll over into the next FY to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

Since 1998, the VCTC Program has awarded \$66.9 million in VCTCs. Total requests for tax credits have met or exceeded the annual authorization since 2007.⁵⁹ Since 2012, the approved tax credits have averaged more than \$8.3 million per year. In 2015, the Legislature approved a one-time tax credit authorization of \$21.6 million, which allowed the DEP to issue certificates for all tax credits that were approved but had not received funding. In 2016, DEP received 99 tax credit applications and approved

⁵⁷ s. 376.30781, F.S.

⁵⁸ s. 220.1845, F.S.

⁵⁹ DEP, Florida Brownfields Redevelopment Program, 2016 Annual Report, available at:

http://www.dep.state.fl.us/Waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf (last visited March 22, 2017).

\$10.8 million in VCTCs for site rehabilitation work completed in 2015. However, some of the tax credit recipients will not receive their certificates until 2018 because the total eligible requests received for 2015 site rehabilitation work exceeded the \$5 million authorization by \$5.8 million. In 2017, DEP received 133 tax credit applications in the amount of \$14.8 million in requested tax credits for site rehabilitation work completed in 2016.⁶⁰

Proposed Changes

The PCB provides the amount of credits that may be awarded in FY 2017-18 is \$20 million, and increases the annual amount of credits that may be awarded from \$5 million to \$10 million in each fiscal year thereafter.

Sales/Corporate/Ins. Premiums Tax: Community Contribution Tax Credit Program

Current Situation

In 1980, the Legislature established the Community Contribution Tax Credit Program (“CCTCP”) to encourage private sector participation in community revitalization and housing projects.⁶¹ Broadly, the CCTCP offers tax credits to businesses or persons (“taxpayers”) anywhere in Florida that contribute⁶² to certain projects undertaken by approved CCTCP sponsors.⁶³

Eligible sponsors under the CCTCP include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.⁶⁴ As of November, 2016, the CCTCP had 119 approved sponsors.⁶⁵

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households as those terms are defined in s. 420.9071;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.⁶⁶

In addition, eligible projects must be located in an area that was designated as an enterprise zone as of May 1, 2015⁶⁷ or a Front Porch Florida Community, with two exceptions. First, any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S., is exempt from the area requirement. Second, any project designed to provide increased access to high-speed broadband capabilities that includes coverage in a rural community that had an enterprise zone designation as of May 1, 2015, may locate the project's infrastructure in any area of a rural county (inside or outside of the zone).

The DEO administers the CCTCP, and its responsibilities include reviewing sponsor project proposals and tax credit applications, periodically monitoring projects, and marketing the CCTCP in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial

⁶⁰ DEP, Agency Analysis of 2017 HB 753, p. 5 (March 3, 2017).

⁶¹ Ch. 80-249, Laws of Fla. The CCTCP is one of the state incentives available under the Florida Enterprise Zone Act, which is scheduled to be repealed on December 31, 2015. Sections 290.007(3) and 290.016, F.S.

⁶² Sections 212.08(5)(p)2.a., 220.183(2)(a), and 624.5105(5)(a), F.S. require community contributions to be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources.

⁶³ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁶⁴ See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

⁶⁵ DEO, Division of Community Development, Email to House Ways & Means staff, Nov. 8, 2016. Email on file with the Ways & Means Committee.

⁶⁶ ss. 212.08(5)(p)2.b.; 220.183(2)(d); 624.5105(2)(b); and 220.03(1)(t), F.S.

⁶⁷ The Florida Enterprise Zone Act was partially repealed as of December 31, 2015- see ch. 2015-221, L.O.F.; s. 290.016, F.S.

intermediaries.⁶⁸ Once approved by the DEO, the taxpayer must claim the community contribution tax credit from the DOR.

The credit is calculated as 50 percent of the taxpayer's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.⁶⁹ The taxpayer may use the credit against corporate income tax, insurance premiums tax, or as a refund against sales tax.⁷⁰ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.⁷¹ Unused credits against sales taxes may be carried forward for three years.⁷²

DOR may approve \$21.4 million in annual funding for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs and \$3.5 million for all other projects. "Persons with special needs" is defined in current statute to include adults requiring independent living services, young adults formerly in foster care, survivors of domestic violence, and people receiving Social Security Disability Insurance, Supplemental Security Income, or veterans' disability benefits.⁷³ During FY 2015-2016, the DEO approved 430 tax credit applications submitted by 60 eligible sponsors for eligible projects located in 32 counties. For FY 2016-17, as of March 16, 2017, the DEO has approved 349 tax credit applications.⁷⁴ For FY 2014-15, as of December 31, 2014, the DEO has approved 383 tax credit applications.⁷⁵

The Legislature extended the CCTCP in 1984, 1994, 2005, 2014, and 2015.⁷⁶ It has also amended the annual tax credit allocation of the CCTCP on numerous occasions.⁷⁷ The CCTCP cap, which started at \$3 million annually, is currently set at \$24.9 million. The cap has been reached every FY since FY 2001-02.

The CCTCP expires June 30, 2018.⁷⁸

Proposed Changes

The PCB extends the expiration date of the CCTCP to June 30, 2019 at current funding levels.

Cigarette Tax: Biomedical Research

Current Situation

Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco (division) in the DBPR are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20, F.S., provides for the payment of monthly distributions as follows:

From the total amount of cigarette tax collections:⁷⁹

- 8.0 percent service charge to the General Revenue Fund;⁸⁰ and

⁶⁸ ss. 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

⁶⁹ ss. 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

⁷⁰ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁷¹ ss. 220.183(1)(e) and (g); and 624.5105, F.S.

⁷² s. 212.08(5)(p)1.b. and f., F.S.

⁷³ s. 420.0004(13), F.S.

⁷⁴ Email correspondence with DEO staff, March 22, 2017, on file with House Ways & Means Committee.

⁷⁵ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, Community Contribution Tax Credits Extension, HB 311/SB 302, p. 19, January 26, 2015 Revenue Impact Results, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/impact0126.pdf.

⁷⁶ Chs. 84-356, 94-136, 2005-282, 2014-38, and 2015-221 Laws of Fla.

⁷⁷ See Chs. 94-136, 98-219, 99-265, 2005-282, 2006-78, 2008-153, and 2015-221 Laws of Fla.

⁷⁸ Ch. 2014-038, s. 15 Laws of Fla.

⁷⁹ See s. 210.20(2)(a), F.S.

- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund.

From the remaining net collections:⁸¹

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the Moffitt Center;⁸² and
- 1.0 percent to the Biomedical Research Trust Fund in the Department of Health (DOH).⁸³

After the above distributions are made, the remaining balance of net cigarette tax collections is deposited in the General Revenue Fund.⁸⁴

The funds deposited into the Biomedical Research Trust Fund are appropriated annually in an amount not to exceed \$3 million for the purpose of establishing activities and grant opportunities in relation to biomedical research.⁸⁵ The Department of Health and the Sanford-Burnham Medical Research Institute are required to use the funding to work in conjunction for these purposes.

Proposed Changes

The PCB repeals the 1.0 percent distribution to the Biomedical Research Trust Fund. Upon this PCB becoming a law, those funds will instead go to the General Revenue Fund.

Highway Safety Fees: Boat Trailers Fees for ch. 501 (c)(3) Organizations

Current Situation

Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes.⁸⁶ The amount of the fee depends of the type and size of the vehicle.

Proposed Changes

The PCB provides an exemption from the annual license tax and surcharges for any marine boat trailer owned and operated by a nonprofit organization that is exempt under s. 501(c)(3) of the Internal Revenue Code and which is used exclusively in carrying on their customary nonprofit activities. The annual tax and surcharge savings on a trailer weighing 500 lbs. or less would be \$21.10.

Alcoholic Beverages Excise Taxes

Current Situation

Section 563.01, F.S., defines "beer" and "malt beverage" to mean all brewed beverages containing malt. Section 534.01, F.S., defines "wine," in part, to mean all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the

⁸⁰ See s 215.20(1), F.S. concerning the appropriation of the eight percent service charge to the General Revenue Fund.

⁸¹ See s. 210.20(2)(a), F.S.

⁸² See s. 210.20(2)(b), F.S. The distribution of cigarette tax funds to the Moffitt Center was initiated in 1998, using 2.59 percent for the calculation on net cigarette tax collections. See ch. 98-286, Laws of Fla. The last adjustment to the percentage for the calculation occurred in 2014, when the percentage was set at the current 4.04 percent from July 1, 2014 through June 30, 2017. See s. 8 of ch. 2014-38., Laws of Fla.

⁸³ Pursuant to s. 210.20(2)(c), F.S. these funds (constituting 1.0 percent of net collections) are appropriated in an amount up to \$3 million annually during the period of July 1, 2013 to June 30, 2033, to the DOH and the Sanford-Burnham Medical Research Institute for the purpose of those entities working to establish activities and grant opportunities relating to biomedical research.

⁸⁴ See s. 210.20(b), F.S.

⁸⁵ s. 210.20(1)(c), F.S.

⁸⁶ s. 320.08, F.S.

manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Section 565.01, F.S., defines "liquor" to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

Excise taxes are imposed upon the manufacturers and distributors of beer, wine and liquor.⁸⁷

Beer

Pints or less	\$0.06 each
Quarts	\$0.12 each
Bulk Gallons	\$0.48 per gallon

Wine (% alcohol by volume)

Less than 17.259%	\$2.25 per gallon
17.259% or more	\$3.00 per gallon
Natural Sparkling	\$3.50 per gallon
Cider	\$0.89 per gallon

Liquor (% alcohol by volume)

Less than 17.259%	\$2.25 per gallon
17.259% to 55.780%	\$6.50 per gallon
More than 55.780%	\$9.53 per gallon

There are some products that meet the federal definition of "beer," but are not beer under current Florida law because they do not contain malt. Consequently, they are taxed at the \$2.25 per gallon liquor tax rate.

On January 17, 2017, the DBPR's Division of Alcoholic Beverages and Tobacco published Industry Notice 2017-001.⁸⁸ The notice provided, in pertinent part:

The Division of Alcoholic Beverages and Tobacco has recently reviewed the brand registration and excise tax classification for several alcoholic beverage brands comprising a product variety commonly known as non-malt spirituous seltzer beverages. The Division's review has determined that clarification regarding this product variety may be needed to ensure the consistent and compliant registration and reporting of these particular products within the industry in Florida.

The alcoholic beverage products regulated by the Florida Beverage Law are classified in three primary beverage types – beer or malt beverages, wine, and liquor. The Division relies on this statutory delineation of the alcoholic beverage product types in the licensing, auditing, and enforcement of regulated entities engaged in the manufacturing, distribution, or retail sale of alcoholic beverages in Florida.

Section 563.01, Florida Statutes, defines "beer" and "malt beverages" to mean all brewed beverages containing malt. Section 564.01, Florida Statutes, defines "wine," in part, to mean all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Section 565.01, Florida Statutes, defines "liquor" to mean that

⁸⁷ See ss. 563.05, F.S., 564.06, F.S., and 565.12, F.S.

⁸⁸ <http://www.myfloridalicense.com/dbpr/abt/documents/2017.01.17%20Industry%20Notice%202017-001%20Spirituous%20Seltzer%20Beverages.pdf>

substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

By definition, alcoholic beverages not containing malt do not qualify to be registered as beer or malt beverage. Similarly, alcoholic beverages not made from fresh fruits, berries, or grapes do not qualify to be registered as wine. If unable to qualify as beer or wine, an alcoholic beverage may be categorized as liquor. ***Pursuant to the Florida Beverage Law, spirituous seltzer beverages and similar products that do not contain malt and are not made from fresh fruits are classified as liquor for the purpose of brand registration in Florida. (emphasis supplied)***

Alcoholic beverages that are not classified as a malt beverage or as wine, which contain less than 17.259 percent alcohol by volume, are subject to alcoholic beverage excise taxes at a rate of \$2.25 per gallon. The Florida Beverage Law requires that this rate be computed and remitted with the monthly report for all spirituous seltzer beverages or similar alcoholic beverages sold during the previous calendar month.

Proposed Changes

The PCB amends the definition of "beer" and "malt beverage" to more closely align with the federal definition of beer set forth in 27-CFR 25.11, but limits the alignment to beverages that are under six percent alcohol by volume. The federal definition of beer appears to encompass non-malt spirituous seltzer type beverages, although specific determinations would depend on the specific formulation of the beverage in question.

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁸⁹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁹⁰ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁹¹

Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.⁹² The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁹³ assessment limitations,⁹⁴ and exemptions,⁹⁵ including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

⁸⁹ FLA. CONST. art VII, s. 9,

⁹⁰ FLA. CONST. art VII, s. 2.

⁹¹ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹² "Exemption" presupposes the existence of a power to tax, while "immunity" implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

⁹³ FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

⁹⁴ FLA. CONST. art VII, s. 4(c), authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. S. 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the

Ad Valorem: Inventory Definition

Current Situation

Current law exempts from ad valorem taxation all items of inventory.⁹⁶ "Inventory" is defined as chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business.⁹⁷ Supplies and raw materials are considered to be inventory only to the extent that they are acquired for sale or lease to customers in the ordinary course of business or will physically become a part of merchandise intended for sale or lease to customers in the ordinary course of business. Partially finished products which when completed will be held for sale or lease to customers in the ordinary course of business are deemed items of inventory. All livestock is considered inventory.

Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, are deemed inventory only prior to the initial lease of such items. Current administration of the law by property appraisers in most counties is to treat such property as taxable tangible personal property once in the hands of a lessee. Should the property be back in the hands of the lessor, the property appraiser will look to the intent of the lessor and determine whether the lessor intends to sell or lease the property. If the intent is to lease the property, it remains taxable. If the intent is to sell the property, it is again treated as inventory. However, the property is never considered inventory when it is in the hands of a lessee.

Proposed Changes

The PCB amends the definition of inventory to explicitly include construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent to purchase option and held for sale to customers in the ordinary course of business.

Ad Valorem: Affordable Housing Agreements

Current Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,⁹⁸ and it provides for specified assessment limitations, property classifications and exemptions.⁹⁹ Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.¹⁰⁰

In 1999,¹⁰¹ the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state

grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

⁹⁵ FLA. CONST. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

⁹⁶ s. 196.185, F.S.

⁹⁷ s. 192.001(11)(c), F.S.

⁹⁸ Fla. Const., art. VII, s. 4.

⁹⁹ Fla. Const., art. VII, ss. 3, 4, and 6.

¹⁰⁰ Fla. Const., art. VII, s. 3.

¹⁰¹ s. 15, ch. 99-378, Laws of Fla., codified at s. 196.1978, F.S.

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housing program under ch. 420, F.S., and serving low-income and very-low-income persons.¹⁰² In order to qualify for the exemption, the property must comply with ss. 196.195 for determining non-profit status of the property owner and s. 196.196 for determining exempt status of the use of the property.

In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195 outlines the statutory criteria that a property appraiser must consider.¹⁰³ The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”¹⁰⁴

In determining whether the use of a property qualifies as charitable, s. 196.196 requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.¹⁰⁵

The Florida Housing Finance Corporation (FHFC) was created by the Legislature to administer the governmental function of financing or refinancing housing and related facilities, and is described as an “entrepreneurial public corporation” that is housed in, but not controlled by, the DEO.¹⁰⁶ The FHFC programming provides numerous financing resources, such as loans and tax credits, to real estate developers who build certain low-income housing projects. Rental property developers who receive financing from the FHFC must agree to enter a Land Use Restrictive Agreement (LURA), which subjects the rental property to certain limitations in exchange for preferable financing, in the way of low-interest loans or tax credits.¹⁰⁷ The purpose of a LURA is to ensure FHFC-financed housing remains affordable by limiting the maximum rent that can be charged for a unit and by requiring that some or all of the units be made available only to households with specified lower income.¹⁰⁸ The land use restrictions are documented in the LURA, and recorded in the public record.¹⁰⁹ Recording the LURA means its restrictions run with the land, so that if the property is sold during the term of the agreement, then the buyer must also abide by the terms of the LURA. Depending on applicable federal and state program requirements, the restriction period for the property may be as short as 10 years or as long as 50 years.¹¹⁰

Proposed Changes

Effective January 1, 2018, the PCB provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196, F.S.

In order to qualify for the discount, the property must:

- Provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Provide the housing in a multifamily project in which at least 70 units are providing affordable housing to the above group; and

¹⁰² The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

¹⁰³ s. 196.195, F.S.

¹⁰⁴ s. 196.195(3), F.S.

¹⁰⁵ s. 196.196(1)(a)-(b), F.S.

¹⁰⁶ s. 420.504(1), F.S.

¹⁰⁷ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

¹⁰⁸ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

¹⁰⁹ See s. 420.504(46), F.S.

¹¹⁰ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

- Be subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the 16th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Ad Valorem: Homes for the Aged

Current Situation

Florida law exempts from ad valorem taxation property used as a home for the aged by certain nonprofit corporations.¹¹¹ In order to qualify for the exemption, the following criteria must be met:

- The applicant for exemption must be qualified as a 501(c)(3) exempt charitable organization under federal law by January 1 of the year it requests to be exempt from Florida ad valorem taxation; and either:
 - A corporation not for profit pursuant to ch. 17, F.S.; or
 - A Florida limited partnership, the sole general partner of which is a corporation not for profit pursuant to ch. 17; and
- Seventy-five percent of the occupants of the facility must be over the age of 62 years or be totally and permanently disabled;
- Certain facilities must also acquire licensing by the Agency for Health Care Administration.¹¹²

Upon sufficient proof that the applicant meets the above criteria, the property appraiser will exempt the portions of the facility which are devoted exclusively to the conduct religious services or the rendering of nursing or medical services. In addition, the property appraiser may exempt individual units or apartments in the facility if residency in those units or apartments is restricted to or occupied by certain persons who are either low income or disabled as specified below:

- Persons who have gross incomes¹¹³ of not more than \$7,200¹¹⁴ per year and who are 62 years of age or older.
- Couples, one of whom must be 62 years of age or older, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.
- Persons who are totally and permanently disabled and who have gross incomes of not more than \$7,200 per year.¹¹⁵
- Couples, one or both of whom are totally and permanently disabled, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

Any portion of the facility used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to the exemption.

¹¹¹ Fla. Const. ss. 3(a), 6(c), art. VII, implemented by s. 196.1975, F.S.

¹¹² Facilities that furnish medical facilities or nursing services, or qualifies as an assisted living facility under ch. 429. See s. 196.1975(2), F.S.

¹¹³ Includes social security benefits for purposes of this exemption. See s. 196.1975(6), F.S.

¹¹⁴ Section 196.1975(4)(b), F.S., provides all of the income limitations are annually adjusted by the percentage change in the average cost-of-living index.

¹¹⁵ Section 196.1975(4)(a), F.S., provides the income limitations do not apply to totally and permanently disabled veterans that meet the requirements of s. 196.081, F.S.

In order to demonstrate to the property appraiser the facility is qualified for the exemption, the facility must annually file an application for exemption with the property appraiser (DR-504HA).¹¹⁶ Section 196.1975(9)(b) also requires the facility to file with the application an affidavit from each person residing in a unit or apartment in the facility that meets the disability or income requirements described above (DR-504S). Paragraph (9)(b) provides that the person signing the affidavit attests that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence. The application notifies the facility that it may be required to provide supplemental information other than the application upon a reasonable request by the property appraiser.¹¹⁷

Proposed Changes

The PCB provides that each facility applying for an exemption must file with the annual application for exemption an affidavit approved by the Department of Revenue from each person who occupies a unit or apartment stating the person's income and provides that the affidavit is prima facie evidence of the person's income. However, if the property appraiser determines, at a later time, that additional documentation proving an affiant's income is necessary, the property appraiser may request such documentation. The PCB provides that the facility is not required to provide an income affidavit from a resident who is a totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S.

DOR Tax Administration

This PCB contains recommendations for general tax administration improvements, primarily consisting of legislative concepts submitted by the DOR following approval by the Governor and Cabinet. The PCB includes numerous statutory changes intended to reduce the burden of compliance on taxpayers, reduce the DOR's costs, increase efficiency in tax administration, and improve enforcement of tax laws.

Estate Administration Reporting

Current Situation

Current law requires each circuit judge of this state to notify the DOR and the Agency for Healthcare Administration on a monthly basis of names and certain other information related to all estates of decedents that commenced estate administration during the preceding month.¹¹⁸ Due to changes in estate and intangible tax law, the DOR no longer uses or needs this information.

In addition, the personal representative of an estate generally must notify the creditors of the decedent that estate administration proceedings have commenced.¹¹⁹ If the DOR has not previously been served with a copy of the notice to creditors, then the personal representative is also required to provide the DOR with a copy of the estate's inventory, even when the DOR is not a creditor.¹²⁰

Proposed Changes

The PCB removes the DOR from the monthly reporting requirement for circuit court judges.

In addition, the PCB provides that the personal representative has to provide the DOR with a copy of the notice of creditors only when the DOR is a creditor.

¹¹⁶ s. 196.1975(9)(b), F.S.

¹¹⁷ DOR, Ad Valorem Tax Exemption Application and Return, Homes for the Aged, DR-504HA, available at: http://floridarevenue.com/Pages/forms_index.aspx (last visited April 1, 2017).

¹¹⁸ s. 198.30, F.S.

¹¹⁹ s. 733.2121, F.S.

¹²⁰ s. 733.2121(3)(e), F.S.

Registration Fees

Current Situation

Under current law, the following registration and licensing fees must be paid to the DOR:

- Terminal supplier, importer, exporter, blender, biodiesel manufacturer, or wholesaler of motor fuel license tax (\$30 annually);¹²¹
- Private or common carrier of motor fuel license tax (\$30 annually);¹²²
- Terminal operator license tax (\$30 annually);¹²³
- Any person who is not otherwise licensed pursuant to ch. 206 (fuel taxes) and who produces, imports, or causes to be imported pollutants, a temporary license fee (\$30 annually);¹²⁴
- Commercial air carrier license application fee (\$30 annually);¹²⁵
- Natural gas fuel retailer license fee (\$5 annually);¹²⁶
- Unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the DOR (unspecified amount);¹²⁷
- Most sales tax dealers (one time \$5 registration fee for paper return filers);¹²⁸
- Drycleaning facility or drycleaning drop-off facility registration fee (\$30 annually);¹²⁹ and
- Any person producing in, importing into, or causing to be imported into, or selling in, this state perchloroethylene registration fee (e.g., chemical sold to drycleaning facilities).¹³⁰

In addition, when motor fuel or diesel fuel is sold by a retail dealer to a person who claims to be entitled to a refund, such person may file a refund claim pursuant to s. 206.41, F.S., and is charged \$2 per refund claim.

Proposed Changes

The PCB eliminates the license registration fees described above, as well as the \$2 per refund charge.

Vending Machine Operators

Current Situation

An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the DOR, has obtained a separate registration certificate for each county in which such machines are located, and has affixed a notice to each vending machine selling food or beverages.¹³¹ The penalty for noncompliance with the notice requirement is \$250 per machine.¹³² The notice is intended to notify customers that each vending machine must contain the required notice, and if a machine does not have such notice the customer may report the noncompliance to the DOR and potentially receive a cash reward.¹³³

¹²¹ s. 206.02, F.S.

¹²² s. 206.021, F.S.

¹²³ s. 206.022, F.S.

¹²⁴ s. 206.9943, F.S.

¹²⁵ s. 206.9865, F.S.

¹²⁶ s. 206.9952, F.S.

¹²⁷ s. 212.0596, F.S.

¹²⁸ s. 212.18, F.S.

¹²⁹ s. 376.70, F.S.

¹³⁰ s. 376.75(2), F.S.

¹³¹ s. 212.0515(3)(a), F.S.

¹³² s. 212.0515(4), F.S.

¹³³ s. 212.0515(3)(b), F.S.

The DOR estimates that they receive approximate 100-150 calls per year on the toll free number provided on the notice related to vending machines, but almost all of those calls are individuals complaining that the machine does not work. The DOR has never issued the \$250 penalty, nor the reward for reporting noncompliance.

Proposed Changes

The PCB removes the notice requirement, the associated penalty, and the customer reward for reporting noncompliance.

Local Option Fuel Taxes

Current Situation

Counties may levy a "ninth-cent fuel tax" (one cent per net gallon) on motor fuel and diesel fuel if approved by extraordinary vote of its governing board or by voter referendum.¹³⁴ Counties also may levy a "local option fuel tax" on motor fuel (between one cent and 11 cents per net gallon) and diesel fuel (six cents per net gallon).

All impositions of the ninth-cent fuel tax or the local option fuel tax must be levied before October 1 of each year to be effective January 1 of the following year. This timing allows the DOR sufficient time to implement necessary changes in distribution programs and other administrative changes needed to implement the tax levy. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be re-imposed at the current authorized rate to be effective September 1 of the year of expiration. Current law does not specify when the re-imposition of the tax must be levied, which has resulted in some confusion and administrative challenges for implementing such re-impositions of tax.

Proposed Changes

The PCB provides that levies of the ninth-cent fuel tax or the local option fuel tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1 to be effective September 1 of that year.

Tax Remittance Due Dates

Current Situation

Employers in Florida required to remit reemployment assistance contributions must do so on a quarterly basis, except that they may remit annually between January 1 and February 1 for employees performing domestic services, as defined in s. 443.1216(6), F.S.¹³⁵

For an annual administrative fee not to exceed \$5, employers can remit the quarterly contributions in equal installments according to specified due dates for each installment.¹³⁶

Any employer who employed 10 or more employees in any quarter during the preceding state FY must file the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the contributions and reimbursements due by electronic means approved by the tax collection service provider.¹³⁷ An employer who is required file a UCT-6 report by approved electronic means, but who files the report by

¹³⁴ s. 336.021(1)(a), F.S.

¹³⁵ s. 443.131, F.S.

¹³⁶ s. 443.141, F.S.

¹³⁷ s. 443.161(1), F.S.

a means other than approved electronic means, is liable for a penalty of \$50 for that report and \$1 for each employee.¹³⁸

Proposed Changes

The PCB provides that employers of employees performing domestic services described above must remit no later than January 31, or if that day is a Saturday, Sunday, or holiday, then on the next day that is not a Saturday, Sunday, or holiday.

Further, if any of the quarterly due dates for employers remitting contributions on an installment basis fall on a Saturday, Sunday, or holiday, then the due date will be the next day that is not a Saturday, Sunday, or holiday.

For purposes of these changes, holidays are those dates designated by ss. 110.117(1) and (2), F.S., and any other day that the offices of the United States Postal Service are closed.

Lastly, the tax collection service provider (i.e., DOR) may waive the penalty for reporting by a means other than approved electronic means if a written request for waiver is filed that establishes that imposition would be inequitable. Examples of inequity include, but are not limited to, situations where the failure to e-file was caused by one of the following factors:

- Death or serious illness of the person responsible for the preparation and filing of the report.
- Destruction of the business records by fire or other casualty.
- Unscheduled and unavoidable computer down time.

B. SECTION DIRECTORY:

- Section 1. Amends s. 196.1975(4), F.S., to clarify the documentation needed to be submitted by certain nonprofit homes for the aged to obtain a property tax exemption.
- Section 2. Amends s. 196.1978, F.S., to create a property tax discount on certain property used for charitable affordable housing.
- Section 3. Amends s. 198.30, F.S., to eliminate the requirement that judges to report names of decedents to DOR.
- Section 4. Amends s. 192.001(11)(c), to clarify the definition of "inventory" for ad valorem tax purposes.
- Section 5. Amends ss. 206.02(2)(c), (3)(c), (4)(c), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel supplier, importer, exporter, blender, or wholesaler.
- Section 6. Amends s. 206.021(3), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel common carrier.
- Section 7. Amending s. 206.022(2), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel terminal operator.
- Section 8. Amends s. 206.03(1), F.S., to conform to changes made to s. 206.02, F.S., by the PCB.
- Section 9. Amends s. 206.045, F.S., to conform to changes made to ch. 206, F.S., by the PCB.
- Section 10. Repeals ss. 206.405 and 206.406, F.S., to conform to changes made to ch. 206, F.S., by the PCB.

- Section 11. Amends s. 206.41(5)(c)(2), F.S., to remove the \$2 fee for each motor fuel tax refund claim.
- Section 12. Amends s. 206.9943(3), F.S., to remove the \$30 annual registration fee for a pollutant tax license.
- Section 13. Amends s. 206.9952(9), F.S. to remove the \$5 annual registration fee for a natural gas retailer license.
- Section 14. Amends s. 206.9865(3), F.S., to remove the \$30 annual registration fee for a license to be a commercial air carrier.
- Section 15. Repeals s. 210.20(2)(c), F.S., to redirect the distribution of certain cigarette tax collections.
- Section 16. Amends 212.031(1)(a)(4), F.S., to exempt a portion of the sales and use tax on commercial real estate rentals.
- Section 17. Amends s. 212.04(1)(c), F.S., to exempt certain resales of admissions to exempt entities.
- Section 18. Amends ss. 212.0515(3)(a), (4), F.S., to remove a notice requirement for vending machine operators, the associated penalty for noncompliance, and the reward for reporting noncompliance.
- Section 19. Amends s. 212.0596(l)(7), F.S., to remove a reference to registration fees for unregistered persons who make mail order sales in Florida.
- Section 20. Amends s. 212.08(5)(p), F.S., to extend the CCTC for one year and set the tax credit cap at \$24.9 million; amends s. 212.08(5)(a), F.S., and adds (7)(ooo),(ppp), (19), and (20) to that section to provide the following sales tax exemptions:
- certain animal health products,
 - diapers and incontinence products,
 - feminine hygiene products,
 - annual sales tax holiday for certain purchases of by eligible military veterans, and
 - certain sales made between certain financial institutions and related parties.
- Section 21. Amends s. 212.18(3)(a), F.S., to remove the \$5 registration fee for sales and use tax dealers.
- Section 22. Amends s. 220.03(t), F.S., to conform to provisions in the PCB that extend the CCTCP for one year and set the tax credit cap at \$24.9 million.
- Section 23. Amends s. 220.183(5), F.S, to extend the CCTC for one year and set the tax credit cap at \$24.9 million.
- Section 24. Amends s. 220.1845(2)(f), F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at \$20 million for 2017-2018 and \$10 million thereafter
- Section 25. Amends s. 220.196(3)(e), F.S., to increase the cap for the Research and Development Tax Credit to \$20 million for calendar year 2018.

- Section 26. Amends s. 220.222(2)(d) to change the filing date for certain income tax returns of calendar year taxpayers.
- Section 27. Amends s. 220.33(1), F.S., to change the filing date for estimated tax for corporate income tax to be due on the last Friday in June if the last day in June is a Saturday or Sunday.
- Section 28. Amends s. 320.08(13), F.S., to conform to changes made to s. 320.10, F.S., by the PCB.
- Section 29. Adds new paragraph (k) to s. 320.10, F.S., to provide an exemption for motor vehicle license taxes on marine boat trailers owned by s. 501(c)(3) organizations.
- Section 30. Creates s. 320.102, F.S., to exempt certain marine boat trailers owned by s. 501(c)(3) organizations from motor vehicle fees.
- Section 31. Amends s. 336.021(5), F.S., to provide that levies of the ninth-cent fuel which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1.
- Section 32. Amends s. 336.025(1)(b)(1), F.S., to provide that levies of the local option fuel tax which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1.
- Section 33. Amends s. 376.30781(4), F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at \$20 million for 2017-2018 and \$10 million thereafter.
- Section 34. Amends s. 376.70(2), F.S., to remove the \$30 registration fee for dry cleaning facilities operators.
- Section 35. Amends s. 376.71, F.S., to conform to changes made to s. 376.70, F.S., by the PCB.
- Section 36. Amends s. 376.75(2), F.S., to remove the \$30 registration fee for persons producing or importing perchloroethylene.
- Section 37. Amends s. 443.131(1), F.S., to clarify the reemployment assistance contributions remittance due date for certain employers is no later than January 31, or the next day that is not a Saturday, Sunday, or holiday.
- Section 38. Amends s. 443.141(1)(a), F.S., to clarify that, for employers who remit reemployment assistance contributions remittance on an installment basis, the due date for any installment payment that falls on a Saturday, Sunday, or holiday will be the next day that is not a Saturday, Sunday, or holiday.
- Section 39. Amends s. 443.163, F.S., to allow tax collection service providers the option to waive penalties for incorrectly filed reports for specified reasons.
- Section 40. Amends s. 563.01, to amend the definitions of "beer" and "malt beverage."
- Section 41. Amends s. 624.5105(6), F.S., to extend the CCTCP for one year and set the tax credit cap at \$24.9 million.
- Section 42. Amends s. 733.2121, F.S., to clarify a decedent's personal representative needs to serve the DOR with a notice of creditors only when the DOR is a creditor.

- Section 43. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 44. Provides an exemption from the sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 45. Provides an exemption from the sales and use tax for the retail sale of certain textbooks during the 2017-18 fiscal year; provides emergency rulemaking authority.
- Section 46. Provides the DOR with emergency rulemaking authority to implement the amendments made to s. 212.08(19), F.S.
- Section 47. Amends s. 206.998, F.S., to conform to changes made to ch. 206, F.S., by the PCB.
- Section 48. Provides an appropriation.
- Section 49. Provides that the amendments made by the PCB to s. 212.08(5)(a), F.S., are remedial in nature and retroactive, but do not provide the basis for an assessment or refund of taxes.
- Section 50. Provides that the amendments made to s. 220.222, F.S., by the PCB apply to taxable years beginning on or after January 1, 2016.
- Section 51. Provides an appropriation.
- Section 52. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The PCB will remove, either during specific periods of time or on an ongoing basis, the sales tax on various purchases of tangible personal property, and reduce the sales tax on the rental of commercial real estate.

The PCB is expected to reduce the corporate income tax liability for certain taxpayers that utilize the tax credit programs affected by the PCB.

D. FISCAL COMMENTS:

The total impact of the PCB in FY 2017-2018 is -\$296.3 million (-\$276.0 million recurring) of which -\$238.2 million (-\$212.0 million recurring) is on General Revenue, -\$2.6 million is on state trust funds, and -\$55.5 million (-\$61.4 million recurring) is on local government (see table below). Non-recurring General Revenue and local government impacts in years beyond FY 2017-18, total -\$480.2 million and -\$61.1 million, respectively. Total tax reductions proposed by the PCB are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$953.9 million in tax reductions proposed by the PCB is the sum of -\$275.9 million (recurring, excluding appropriations), -\$136.7 million (pure nonrecurring in FY 2017-18), and -\$541.3 million (pure nonrecurring after FY 2017-18).

Appropriations Detail—The \$814,726 appropriated in the PCB consists of \$241,200 to implement the “back-to-school” sales tax holiday, \$290,580 to implement the disaster preparedness sales tax holiday, \$149,818 to implement the business rent tax rate reduction and the new exemptions for diapers, incontinence products, and feminine hygiene products, and \$133,128 to administer the annual veterans’ clothing holiday. Most of the above appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

Fiscal Year 2017-18 Estimated Fiscal Impacts (millions of \$)

Issue	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax: Business Rent/1.5% for 2 yrs/0.5% Perm.</u>	(168.9)	(135.1)	(*)	(*)	(21.8)	(17.5)	(190.7)	(152.6)
<u>Sales Tax: Tax Holiday/"Back-to-School" [Aug 4-13]</u>	(56.0)	-	(*)	-	(14.3)	-	(70.3)	-
<u>Sales Tax: Tax Holiday/Disaster Preparedness</u>	(5.3)	-	(*)	-	(1.4)	-	(6.7)	-
<u>Sales Tax: Veterans' Tax Holiday/Annual</u>	(1.4)	(1.4)	(*)	(*)	(0.3)	(0.3)	(1.7)	(1.7)
<u>Sales Tax: Diapers & Incontinence Products</u>	(18.0)	(43.1)	(*)	(*)	(4.6)	(11.0)	(22.6)	(54.1)
<u>Sales Tax: Hygiene Products</u>	(3.8)	(8.9)	(*)	(*)	(1.0)	(2.3)	(4.8)	(11.2)
<u>Sales Tax: College Textbooks (1 Yr)</u>	(33.3)	-	(*)	-	(8.5)	-	(41.8)	-
<u>Sales Tax: Agriculture/Animal Health & Other</u>	(10.3)	(10.9)	-	-	(2.7)	(2.7)	(13.0)	(13.6)
<u>Sales Tax: Admissions Resales</u>	(2.2)	(2.4)	(*)	(*)	(0.6)	(0.6)	(2.8)	(3.0)
<u>Sales Tax: Dodd-Frank Exemption</u>	(1.6)	(7.5)	(*)	(*)	(0.3)	(1.0)	(1.9)	(8.5)
<u>Ad Valorem: Inventory Definition (1)</u>	-	-	-	-	-	(0.2)	-	(0.2)
<u>Ad Valorem: Affordable Housing (1)</u>	-	-	-	-	-	(25.8)	-	(25.8)
<u>Beverage Tax: Beer/Malt Beverage Definitions</u>	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
<u>Corp Income Tax: Brownfields Credit Increase</u>	(15.0)	(5.0)	-	-	-	-	(15.0)	(5.0)
<u>Corp Income Tax: R&D Credit Increase</u>	(7.9)	-	-	-	-	-	(7.9)	-
<u>HSMV Fees: Boat Trailers Fees for 501(c)(3)</u>	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
<u>DOR Registration Fees and Administration</u>	(0.2)	(0.2)	-	-	-	-	(0.2)	(0.2)
<u>Appropriations: Tax Holidays & Admin</u>	(0.7)	-	(0.1)	(0.1)	-	-	(0.8)	(0.1)
<u>Corp Income Tax: Payment Due Date</u>	83.9	-	-	-	-	-	83.9	-
<u>Cigarette Tax: Biomedical Research</u>	2.5	2.5	(2.5)	(2.5)	-	-	-	-
2017-18 Total	(238.2)	(212.0)	(2.6)	(2.6)	(55.5)	(61.4)	(296.3)	(276.0)

Non-recurring Impacts After FY 2017-18	Cash		Cash		Cash		Cash	
<u>Sales/Corporate/Ins. Prem.: Comm Cont Tax Credit Extension (1 Yr)</u>	(22.5)	-	(*)	-	(2.4)	-	(24.9)	-
<u>Corp Income Tax: R&D Credit Increase</u>	(3.1)	-	-	-	-	-	(3.1)	-
<u>Sales Tax: Business Rent/1.5% for 2 yrs</u>	(454.6)	-	-	-	(58.7)	-	(513.3)	-
Bill Total	(718.4)	(212.0)	(2.6)	(2.6)	(116.6)	(61.4)	(837.6)	(276.0)
Recurring + Pure Nonrecurring (2) =								(953.9)

(*) Impact less than \$50,000; (**) Impact is indeterminate.
 (1) Ad valorem tax impacts assume current tax rates.
 (2) Recurring tax cut total (excl. appropriations) = -\$275.9 million
 Pure nonrecurring tax cuts in FY 2017-18 = -\$136.7 million
Pure nonrecurring tax cuts after FY 2017-18 = -\$541.3 million
 -\$953.9 million

I. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because the provision in the PCB that provides a property tax discount for certain property used to provide affordable housing may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOR has general rulemaking authority to create rules governing the taxes it administers. The PCB authorizes DOR to adopt emergency rules to implement the changes in the related to the back to school sales tax holiday, the disaster preparedness sales tax holiday, and the veterans' sales tax holiday. The PCB also provides a grant of rulemaking authority to implement the veterans' sales tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to taxation; amending s. 196.1975,
3 F.S.; requiring certain corporations that provide
4 homes for the aged to file specified affidavits with
5 their annual tax exemption applications; providing an
6 exemption; authorizing the property appraiser to
7 request specified additional documentation under
8 certain conditions; amending s. 196.1978, F.S.;
9 discounting property taxes for properties that offer
10 affordable housing to specified low-income persons and
11 families; providing requirements for such discount;
12 amending s. 198.30, F.S.; removing a requirement for
13 circuit judges to report certain information regarding
14 a decedent's estate to the Department of Revenue;
15 amending s. 192.001, F.S.; revising the definition of
16 the term "inventory" to include specified construction
17 and agricultural equipment under certain
18 circumstances; amending s. 206.02, F.S.; deleting
19 license application and renewal taxes for terminal
20 supplier and motor fuel importer, exporter, blender,
21 and wholesaler licenses; amending s. 206.021, F.S.;
22 deleting license application and renewal taxes for
23 private or common carrier of motor fuel licenses;
24 amending s. 206.022, F.S.; deleting license
25 application and renewal taxes for terminal operator

26 licenses; amending ss. 206.03 and 206.045, F.S.;

27 conforming provisions to changes made by this act;

28 repealing ss. 206.405 and 206.406, F.S., relating to

29 the receipt and deposit of funds received from the

30 payment of certain motor fuel license taxes; amending

31 s. 206.41, F.S.; deleting the fee deducted from

32 quarterly motor fuel refund claims to qualified

33 taxpayers; amending ss. 206.9943, 206.9952, and

34 206.9865, F.S.; deleting application and renewal fees

35 for pollutant tax, natural gas fuel retailer, and

36 aviation fuel tax licenses; amending 210.20, F.S.;

37 deleting specified cigarette taxes from being

38 deposited into a specified trust fund for biomedical

39 research purposes; amending s. 212.031, F.S.; reducing

40 the tax levied on the renting, leasing, letting, and

41 granting of a license for the use of real property;

42 providing applicability; amending s. 212.04, F.S.;

43 authorizing refunds or credits of taxes paid on

44 admissions subsequently resold to exempt entities;

45 amending s. 212.0515, F.S.; deleting provisions

46 relating to required notice by vending machine

47 operators, awards for reporting certain violations,

48 and penalties for certain violations; amending s.

49 212.0596, F.S.; deleting authority for the department

50 to establish a waiver for certain registration fees;

51 amending s. 212.08, F.S.; revising the sales and use
 52 tax exemption for certain farm trailers; exempting
 53 certain animal and aquaculture health products,
 54 fencing materials, and oxygen products from the sales
 55 and use tax; specifying the total amount of community
 56 contribution tax credits that may be granted for
 57 contributions made to eligible sponsors of specified
 58 projects; extending the expiration date of the
 59 community contribution tax credit program; providing
 60 sales tax exemptions for products used to absorb
 61 menstrual flow, diapers, and incontinence products;
 62 providing an annual sales tax holiday for purchases of
 63 certain clothing and footwear by eligible military
 64 veterans; authorizing certain dealers to opt out of
 65 participating in such tax exemption; providing
 66 requirements to opt out of participation; authorizing
 67 the department to adopt rules; providing a sales tax
 68 exemption for certain sales between related persons as
 69 described under specified federal laws and
 70 regulations; providing requirements for such
 71 exemption; providing definitions; amending s. 212.18,
 72 F.S.; deleting the application fees to obtain a
 73 certificate of registration as a sales tax dealer;
 74 amending s. 220.03, F.S.; extending the expiration
 75 date for the definitions of the terms "community

76 contribution" and "project" in the income tax code;
 77 amending s. 220.183, F.S.; specifying the total amount
 78 of community contribution tax credits that may be
 79 granted for contributions made to eligible sponsors of
 80 specified projects; extending the expiration date of
 81 specified provisions relating to community
 82 contribution tax credits; amending s. 220.1845, F.S.;
 83 specifying the tax credits available for contaminated
 84 site rehabilitation in a specified year and annually
 85 thereafter; amending s. 220.196, F.S.; specifying the
 86 amount of research and development tax credits that
 87 may be granted to business enterprises in a specified
 88 year; amending s. 220.222, F.S.; deleting a provision
 89 that limits the time period for filing certain
 90 corporate income tax filings; amending s. 220.33,
 91 F.S.; specifying filing days for estimated payments
 92 for corporate income tax purposes; amending s. 320.10,
 93 F.S.; exempting certain marine boat trailers from
 94 license taxes; amending s. 336.021, F.S.; authorizing
 95 a county to reimpose a current local option fuel tax
 96 rate under certain circumstances; amending 336.025,
 97 F.S.; authorizing a county to reimpose a current local
 98 option fuel tax rate under certain circumstances;
 99 requiring the rescission of such rate on a specified
 100 date; amending s. 376.30781, F.S.; revising the total

101 amount of tax credits that may be granted for the
 102 rehabilitation of drycleaning-solvent-contaminated
 103 sites and brownfield sites in a specified year and
 104 annually thereafter; amending s. 376.70, F.S.;

105 deleting provisions relating to drycleaning facility
 106 registration fees; amending s. 376.71, F.S.;

107 conforming provisions to changes made by this act;
 108 amending s. 376.75, F.S.; deleting the registration
 109 fee for a certain pollutant tax license to import
 110 perchloroethylene; amending ss. 443.131 and 443.141,
 111 F.S.; revising the date on which certain employer
 112 contributions are due; providing a definition;
 113 amending s. 443.163, F.S.; authorizing the tax
 114 collection service provider to waive penalties for
 115 late-filed returns under certain circumstances;

116 amending s. 563.01, F.S.; revising the definitions of
 117 the terms "beer" and "malt beverage" for purposes of
 118 the Beverage Law; amending s. 624.5105, F.S.;

119 specifying the total amount of community contribution
 120 tax credits that may be granted each fiscal year;
 121 extending the expiration date of specified provisions
 122 relating to community contribution tax credits;

123 amending s. 733.2121, F.S.; requiring a personal
 124 representative to serve notice of creditors on the
 125 department only if the department is a creditor;

126 providing sales tax exemptions for the retail sale of
 127 certain clothing, school supplies, personal computers,
 128 personal computer-related accessories, disaster
 129 preparedness supplies, and educational textbooks and
 130 instructional materials during specified periods;
 131 providing exceptions; authorizing, and providing
 132 requirements for, certain dealers to opt out of
 133 participating in such tax exemption; authorizing the
 134 department to adopt emergency rules; amending s.
 135 206.998, F.S.; conforming provisions to changes made
 136 by this act; providing repeal dates; providing for
 137 retroactive application; providing applicability;
 138 providing appropriations; providing effective dates.

139

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

141

142 Section 1. Paragraph (c) is added to subsection (4) of
 143 section 196.1975, Florida Statutes, to read:

144 196.1975 Exemption for property used by nonprofit homes
 145 for the aged.—Nonprofit homes for the aged are exempt to the
 146 extent that they meet the following criteria:

147 (4)

148 (c) Each not-for-profit corporation applying for an
 149 exemption under paragraph (a) must file with its annual
 150 application for exemption an affidavit approved by the

151 Department of Revenue from each person who occupies a unit or
 152 apartment stating the person's income. The affidavit is prima
 153 facie evidence of the person's income. The corporation is not
 154 required to provide an affidavit from a resident who is a
 155 totally and permanently disabled veteran who meets the
 156 requirements of s. 196.081. If, at a later time, the property
 157 appraiser determines that additional documentation proving an
 158 affiant's income is necessary, the property appraiser may
 159 request such documentation.

160 Section 2. Effective January 1, 2018, section 196.1978,
 161 Florida Statutes, is amended to read:

162 196.1978 Affordable housing property exemption.—

163 (1) Property used to provide affordable housing to
 164 eligible persons as defined by s. 159.603 and natural persons or
 165 families meeting the extremely-low-income, very-low-income, low-
 166 income, or moderate-income limits specified in s. 420.0004,
 167 which is owned entirely by a nonprofit entity that is a
 168 corporation not for profit, qualified as charitable under s.
 169 501(c)(3) of the Internal Revenue Code and in compliance with
 170 Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned
 171 by an exempt entity and used for a charitable purpose, and those
 172 portions of the affordable housing property that provide housing
 173 to natural persons or families classified as extremely low
 174 income, very low income, low income, or moderate income under s.
 175 420.0004 are exempt from ad valorem taxation to the extent

176 authorized under s. 196.196. All property identified in this
 177 section must comply with the criteria provided under s. 196.195
 178 for determining exempt status and applied by property appraisers
 179 on an annual basis. The Legislature intends that any property
 180 owned by a limited liability company which is disregarded as an
 181 entity for federal income tax purposes pursuant to Treasury
 182 Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole
 183 member.

184 (2)(a) Notwithstanding ss. 196.195 and 196.196, property
 185 in a multifamily project that meets the requirements of this
 186 paragraph is considered property used for a charitable purpose
 187 and shall receive a 50 percent discount from the amount of ad
 188 valorem tax otherwise owed beginning in the 16th year of the
 189 term of the recorded agreement on those portions of the
 190 affordable housing property that provide housing to natural
 191 persons or families meeting the extremely-low-income, very-low-
 192 income, or low-income limits specified in s. 420.0004. The
 193 multifamily project must:

194 1. Contain more than 70 units that are used to provide
 195 affordable housing to natural persons or families meeting the
 196 extremely-low-income, very-low-income, or low-income limits
 197 specified in s. 420.0004; and

198 2. Be subject to an agreement with the Florida Housing
 199 Finance Corporation recorded in the official records of the
 200 county in which the property is located to provide affordable

201 housing to natural persons or families meeting the extremely-
 202 low-income, very-low-income, or low-income limits specified in
 203 s. 420.0004.

204
 205 This discount terminates if the property no longer serves
 206 extremely-low-income, very-low-income, or low-income persons
 207 pursuant to the recorded agreement.

208 (b) To receive the discount under paragraph (a), a
 209 qualified applicant must submit an application to the county
 210 property appraiser by March 1.

211 (c) The property appraiser shall apply the discount by
 212 reducing the taxable value on those portions of the affordable
 213 housing property that provide housing to natural persons or
 214 families meeting the extremely-low-income, very-low-income, or
 215 low-income limits specified in s. 420.0004 before certifying the
 216 tax roll to the tax collector.

217 1. The property appraiser shall first ascertain all other
 218 applicable exemptions, including exemptions provided pursuant to
 219 local option, and deduct all other exemptions from the assessed
 220 value.

221 2. Fifty percent of the remaining value shall be
 222 subtracted to yield the discounted taxable value.

223 3. The resulting taxable value shall be included in the
 224 certification for use by taxing authorities in setting millage.

225 4. The property appraiser shall place the discounted

226 amount on the tax roll when it is extended.

227 Section 3. Effective upon this act becoming a law, section
228 198.30, Florida Statutes, is amended to read:

229 198.30 Circuit judge to report names of decedents, etc.—
230 Each circuit judge of this state shall, on or before the 10th
231 day of every month, notify the Agency for Health Care
232 Administration ~~department~~ of the names of all decedents; the
233 names and addresses of the respective personal representatives,
234 administrators, or curators appointed; the amount of the bonds,
235 if any, required by the court; and the probable value of the
236 estates, in all estates of decedents whose wills have been
237 probated or propounded for probate before the circuit judge or
238 upon which letters testamentary or upon whose estates letters of
239 administration or curatorship have been sought or granted,
240 during the preceding month; and such report shall contain any
241 other information which the circuit judge may have concerning
242 the estates of such decedents. ~~In addition, a copy of this~~
243 ~~report shall be provided to the Agency for Health Care~~
244 ~~Administration.~~ A circuit judge shall also furnish forthwith
245 such further information, from the records and files of the
246 circuit court in regard to such estates, as the department may
247 from time to time require.

248 Section 4. Paragraph (c) of subsection (11) of section
249 192.001, Florida Statutes, is amended to read:

250 192.001 Definitions.—All definitions set out in chapters 1

251 and 200 that are applicable to this chapter are included herein.
 252 In addition, the following definitions shall apply in the
 253 imposition of ad valorem taxes:

254 (11) "Personal property," for the purposes of ad valorem
 255 taxation, shall be divided into four categories as follows:

256 (c)1. "Inventory" means only those chattels consisting of
 257 items commonly referred to as goods, wares, and merchandise (as
 258 well as inventory) which are held for sale or lease to customers
 259 in the ordinary course of business. Supplies and raw materials
 260 shall be considered to be inventory only to the extent that they
 261 are acquired for sale or lease to customers in the ordinary
 262 course of business or will physically become a part of
 263 merchandise intended for sale or lease to customers in the
 264 ordinary course of business. Partially finished products which
 265 when completed will be held for sale or lease to customers in
 266 the ordinary course of business shall be deemed items of
 267 inventory. All livestock shall be considered inventory. Items of
 268 inventory held for lease to customers in the ordinary course of
 269 business, rather than for sale, shall be deemed inventory only
 270 prior to the initial lease of such items. For the purposes of
 271 this section, fuels used in the production of electricity shall
 272 be considered inventory.

273 2. "Inventory" also means construction and agricultural
 274 equipment weighing 1,000 pounds or more that is returned to a
 275 dealership under a rent-to-purchase option and held for sale to

276 customers in the ordinary course of business. This subparagraph
 277 may not be considered in determining whether property that is
 278 not construction and agricultural equipment weighing 1,000
 279 pounds or more that is returned under a rent-to-purchase option
 280 is inventory under subparagraph 1.

281 Section 5. Effective January 1, 2018, subsections (2),
 282 (3), and (4), and paragraph (b) of subsection (8) of section
 283 206.02, Florida Statutes, are amended to read:

284 206.02 Application for license; temporary license;
 285 terminal suppliers, importers, exporters, blenders, biodiesel
 286 manufacturers, and wholesalers.—

287 (2) To procure a terminal supplier license, a person shall
 288 file with the department an application under oath, and in such
 289 form as the department may prescribe, setting forth:

290 (a) The name under which the person will transact business
 291 within the state and that person's registration number under s.
 292 4101 of the Internal Revenue Code.

293 (b) The location, with street number address, of his or
 294 her principal office or place of business and the location where
 295 records will be made available for inspection.

296 (c) The name and complete residence address of the owner
 297 or the names and addresses of the partners, if such person is a
 298 partnership, or of the principal officers, if such person is a
 299 corporation or association; and, if such person is a corporation
 300 organized under the laws of another state, territory, or

301 country, he or she shall also indicate the state, territory, or
 302 country where the corporation is organized and the date the
 303 corporation was registered with the Department of State as a
 304 foreign corporation authorized to transact business in the
 305 state.

306
 307 ~~The application shall require a \$30 license tax.~~ Each license
 308 shall be renewed annually through application, ~~including an~~
 309 ~~annual \$30 license tax.~~

310 (3) To procure an importer, exporter, or blender of motor
 311 fuels license, a person shall file with the department an
 312 application under oath, and in such form as the department may
 313 prescribe, setting forth:

314 (a) The name under which the person will transact business
 315 within the state.

316 (b) The location, with street number address, of his or
 317 her principal office or place of business and the location where
 318 records will be made available for inspection.

319 (c) The name and complete residence address of the owner
 320 or the names and addresses of the partners, if such person is a
 321 partnership, or of the principal officers, if such person is a
 322 corporation or association; and, if such person is a corporation
 323 organized under the laws of another state, territory, or
 324 country, he or she shall also indicate the state, territory, or
 325 country where the corporation is organized and the date the

326 corporation was registered with the Department of State as a
 327 foreign corporation authorized to transact business in the
 328 state.

329

330 ~~The application shall require a \$30 license tax.~~ Each license
 331 shall be renewed annually through application, ~~including an~~
 332 ~~annual \$30 license tax.~~

333 (4) To procure a wholesaler of motor fuel license, a
 334 person shall file with the department an application under oath
 335 and in such form as the department may prescribe, setting forth:

336 (a) The name under which the person will transact business
 337 within the state.

338 (b) The location, with street number address, of his or
 339 her principal office or place of business within this state and
 340 the location where records will be made available for
 341 inspection.

342 (c) The name and complete residence address of the owner
 343 or the names and addresses of the partners, if such person is a
 344 partnership, or of the principal officers, if such person is a
 345 corporation or association; and, if such person is a corporation
 346 organized under the laws of another state, territory, or
 347 country, he or she shall also indicate the state, territory, or
 348 country where the corporation is organized and the date the
 349 corporation was registered with the Department of State as a
 350 foreign corporation authorized to transact business in the

351 state.

352

353 ~~The application shall require a \$30 license tax.~~ Each license
 354 shall be renewed annually through application, ~~including an~~
 355 ~~annual \$30 license fee.~~

356 (8)

357 (b) Notwithstanding the provisions of this chapter
 358 requiring a license ~~tax~~ and a bond or criminal background check,
 359 the department may issue a temporary license as an importer or
 360 exporter to a person who holds a valid Florida wholesaler
 361 license or to a person who is an unlicensed dealer. A license
 362 may be issued under this subsection only to a business that has
 363 a physical location in this state and holds a valid Florida
 364 sales and use tax certificate of registration or that holds a
 365 valid fuel license issued by another state.

366 Section 6. Effective January 1, 2018, subsection (3) and
 367 paragraph (b) of subsection (5) of section 206.021, Florida
 368 Statutes, are amended to read:

369 206.021 Application for license; carriers.-

370 (3) ~~The application shall require a \$30 license tax.~~ Each
 371 license shall be renewed annually through application, ~~including~~
 372 ~~an annual \$30 license tax.~~

373 (5)

374 (b) Notwithstanding the provisions of this chapter
 375 requiring a license ~~tax~~ and a bond or criminal background check,

376 the department may issue a temporary license as a carrier to a
 377 person who holds a valid Florida wholesaler, importer, exporter,
 378 or blender license or to a person who is an unlicensed dealer. A
 379 license may be issued under this subsection only to a business
 380 that has a physical location in this state and holds a valid
 381 Florida sales and use tax certificate of registration or that
 382 holds a valid fuel license issued by another state.

383 Section 7. Effective January 1, 2018, subsection (2) of
 384 section 206.022, Florida Statutes, is amended to read:

385 206.022 Application for license; terminal operators.—

386 (2) ~~The application shall require a \$30 license tax.~~ Each
 387 license shall be renewed annually through application, ~~including~~
 388 ~~an annual \$30 license tax.~~

389 Section 8. Effective January 1, 2018, subsection (1) of
 390 section 206.03, Florida Statutes, is amended to read:

391 206.03 Licensing of terminal suppliers, importers,
 392 exporters, and wholesalers.—

393 (1) The application in proper form having been accepted
 394 for filing, ~~the filing fee paid,~~ and the bond accepted and
 395 approved, except as provided in s. 206.05(1), the department
 396 shall issue to such person a license to transact business in the
 397 state, subject to cancellation of such license as provided by
 398 law.

399 Section 9. Effective January 1, 2018, section 206.045,
 400 Florida Statutes, is amended to read:

401 206.045 Licensing period; ~~cost for license issuance.~~
 402 ~~Beginning January 1, 1998,~~ The licensing period under this
 403 chapter shall be a calendar year, or any part thereof. ~~The cost~~
 404 ~~of any such license issued pursuant to this chapter shall be~~
 405 ~~\$30.~~

406 Section 10. Effective January 1, 2018, sections 206.405
 407 and 206.406, Florida Statutes, are repealed.

408 Section 11. Effective January 1, 2018, paragraph (c) of
 409 subsection (5) of section 206.41, Florida Statutes, is amended
 410 to read:

411 206.41 State taxes imposed on motor fuel.-

412 (5)

413 (c)1. No refund may be authorized unless a sworn
 414 application therefor containing such information as the
 415 department may determine is filed with the department not later
 416 than the last day of the month following the quarter for which
 417 the refund is claimed. However, when a justified excuse for late
 418 filing is presented to the department and the last preceding
 419 claim was filed on time, the deadline for filing may be extended
 420 an additional month. No refund will be authorized unless the
 421 amount due is for \$5 or more for any refund period and unless
 422 application is made upon forms prescribed by the department.

423 2. Claims made for refunds provided pursuant to subsection
 424 (4) shall be paid quarterly. ~~The department shall deduct a fee~~
 425 ~~of \$2 for each claim, which fee shall be deposited in the~~

426 ~~General Revenue Fund.~~

427 Section 12. Effective January 1, 2018, subsection (3) of
428 section 206.9943, Florida Statutes, is amended to read:

429 206.9943 Pollutant tax license.—

430 (3) The license must be renewed annually, ~~and the fee for~~
431 ~~original application or renewal is \$30.~~

432 Section 13. Effective January 1, 2018, subsection (9) of
433 section 206.9952, Florida Statutes, is amended to read:

434 206.9952 Application for license as a natural gas fuel
435 retailer.—

436 (9) ~~The license application requires a license fee of \$5.~~
437 Each license shall be renewed annually by submitting a
438 reapplication ~~and the license fee~~ to the department. ~~The license~~
439 ~~fee shall be paid to the department for deposit into the General~~
440 ~~Revenue Fund.~~

441 Section 14. Effective January 1, 2018, subsection (3) of
442 section 206.9865, Florida Statutes, is amended to read:

443 206.9865 Commercial air carriers; registration;
444 reporting.—

445 (3) The application must be renewed annually ~~and the fee~~
446 ~~for application or renewal is \$30.~~

447 Section 15. Paragraph (c) of subsection (2) of section
448 210.20, Florida Statutes, is amended to read:

449 210.20 Employees and assistants; distribution of funds.—

450 (2) As collections are received by the division from such

451 cigarette taxes, it shall pay the same into a trust fund in the
 452 State Treasury designated "Cigarette Tax Collection Trust Fund"
 453 which shall be paid and distributed as follows:

454 ~~(c) Beginning July 1, 2013, and continuing through June~~
 455 ~~30, 2033, the division shall from month to month certify to the~~
 456 ~~Chief Financial Officer the amount derived from the cigarette~~
 457 ~~tax imposed by s. 210.02, less the service charges provided for~~
 458 ~~in s. 215.20 and less 0.9 percent of the amount derived from the~~
 459 ~~cigarette tax imposed by s. 210.02, which shall be deposited~~
 460 ~~into the Alcoholic Beverage and Tobacco Trust Fund, specifying~~
 461 ~~an amount equal to 1 percent of the net collections, and that~~
 462 ~~amount shall be deposited into the Biomedical Research Trust~~
 463 ~~Fund in the Department of Health. These funds are appropriated~~
 464 ~~annually in an amount not to exceed \$3 million from the~~
 465 ~~Biomedical Research Trust Fund for the Department of Health and~~
 466 ~~the Sanford Burnham Medical Research Institute to work in~~
 467 ~~conjunction for the purpose of establishing activities and grant~~
 468 ~~opportunities in relation to biomedical research.~~

469 Section 16. Effective January 1, 2018, paragraphs (c) and
 470 (d) of subsection (1) of section 212.031, Florida Statutes, are
 471 amended, and paragraph (e) is added to that subsection, to read:

472 212.031 Tax on rental or license fee for use of real
 473 property.—

474 (1)

475 (c) For the exercise of such privilege, a tax is levied at

476 the rate of 5.5 in an amount equal to 6 percent, except for the
 477 period beginning January 1, 2018, and ending December 31, 2019,
 478 during which period the tax shall be levied at the rate of 4.5
 479 percent, of and on the total rent or license fee charged for
 480 such real property by the person charging or collecting the
 481 rental or license fee. The total rent or license fee charged for
 482 such real property shall include payments for the granting of a
 483 privilege to use or occupy real property for any purpose and
 484 shall include base rent, percentage rents, or similar charges.
 485 Such charges shall be included in the total rent or license fee
 486 subject to tax under this section whether or not they can be
 487 attributed to the ability of the lessor's or licensor's property
 488 as used or operated to attract customers. Payments for
 489 intrinsically valuable personal property such as franchises,
 490 trademarks, service marks, logos, or patents are not subject to
 491 tax under this section. In the case of a contractual arrangement
 492 that provides for both payments taxable as total rent or license
 493 fee and payments not subject to tax, the tax shall be based on a
 494 reasonable allocation of such payments and shall not apply to
 495 that portion which is for the nontaxable payments.

496 (d) When the rental or license fee of any such real
 497 property is paid by way of property, goods, wares, merchandise,
 498 services, or other thing of value, the tax shall be at the rate
 499 of 5.5 6 percent, except for the period beginning January 1,
 500 2018, and ending December 31, 2019, during which period the tax

501 shall be levied at the rate of 4.5 percent, of the value of the
 502 property, goods, wares, merchandise, services, or other thing of
 503 value.

504 (e) The tax rate in effect at the time that the tenant or
 505 person occupies, uses, or is entitled to occupy or use the real
 506 property is the tax rate applicable to the transaction taxable
 507 under this section, regardless of when a rent or license fee
 508 payment is due or paid. The applicable tax rate may not be
 509 avoided by delaying or accelerating rent or license fee
 510 payments.

511 Section 17. Paragraph (c) of subsection (1) of section
 512 212.04, Florida Statutes, is amended to read:

513 212.04 Admissions tax; rate, procedure, enforcement.—

514 (1)

515 (c)1. The provisions of this chapter that authorize a tax-
 516 exempt sale for resale do not apply to sales of admissions.
 517 However, if a purchaser of an admission subsequently resells the
 518 admission for more than the amount paid, the purchaser shall
 519 collect tax on the full sales price and may take credit for the
 520 amount of tax previously paid. If the purchaser of the admission
 521 subsequently resells it for an amount equal to or less than the
 522 amount paid, the purchaser may ~~shall~~ not collect any additional
 523 tax ~~or, nor shall the purchaser be allowed to~~ take credit for
 524 the amount of tax previously paid.

525 2. If a purchaser subsequently resells an admission to an

526 entity that has a valid sales tax exemption certificate from the
 527 department, excluding an annual resale certificate, the
 528 purchaser may seek from the vendor a refund or credit for the
 529 amount of tax paid. Upon an adequate showing of the ultimate
 530 exempt nature of the transaction, the vendor shall refund or
 531 credit the tax paid by the purchaser and may then seek a refund
 532 or credit of the tax from the department based on the ultimate
 533 exempt nature of the transaction. The refund or credit is
 534 allowable only if the vendor can show that the tax on the exempt
 535 transaction has been remitted to the department. If the tax has
 536 not yet been remitted to the department, the vendor may retain
 537 the exemption documentation in lieu of remitting tax to the
 538 department.

539 Section 18. Effective January 1, 2018, subsections (5)
 540 through (7) of section 212.0515, Florida Statutes, are
 541 renumbered as subsections (4) through (6), respectively, and
 542 current subsections (3), (4), and (7) of that section are
 543 amended to read:

544 212.0515 Sales from vending machines; sales to vending
 545 machine operators; special provisions; registration; ~~penalties.~~

546 (3) (a) An operator of a vending machine may not operate or
 547 cause to be operated in this state any vending machine until the
 548 operator has registered with the department and has obtained a
 549 separate registration certificate for each county in which such
 550 machines are located, ~~and has affixed a notice to each vending~~

551 ~~machine selling food or beverages. The notice must be~~
 552 ~~conspicuously displayed on the vending machine when it is being~~
 553 ~~operated in this state and shall contain the following language~~
 554 ~~in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES~~
 555 ~~THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING~~
 556 ~~MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO (TOLL-FREE~~
 557 ~~NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD. DO NOT USE THIS~~
 558 ~~NUMBER TO REPORT PROBLEMS WITH THE VENDING MACHINE SUCH AS LOST~~
 559 ~~MONEY OR OUT-OF-DATE PRODUCTS.~~

560 (b) The department shall establish a toll-free number to
 561 report any violations of this section. ~~Upon a determination that~~
 562 ~~a violation has occurred, the department shall pay the informant~~
 563 ~~a reward of up to 10 percent of previously unpaid taxes~~
 564 ~~recovered as a result of the information provided. A person who~~
 565 ~~receives information concerning a violation of this section from~~
 566 ~~an employee as specified in s. 213.30 is not eligible for a cash~~
 567 ~~reward.~~

568 ~~(4) A penalty of \$250 per machine is imposed on an~~
 569 ~~operator who fails to properly obtain and display the required~~
 570 ~~notice on any machine. Penalties accrue interest as provided for~~
 571 ~~delinquent taxes under this chapter and apply in addition to all~~
 572 ~~other applicable taxes, interest, and penalties.~~

573 ~~(6)-(7)~~ The department may adopt rules necessary to
 574 administer ~~the provisions of this section and may establish a~~
 575 ~~schedule for phasing in the requirement that existing notices be~~

576 ~~replaced with revised notices displayed on vending machines.~~

577 Section 19. Effective January 1, 2018, subsection (7) of
 578 section 212.0596, Florida Statutes, is amended to read:

579 212.0596 Taxation of mail order sales.—

580 (7) The department may establish by rule procedures for
 581 collecting the use tax from unregistered persons who but for
 582 their mail order purchases would not be required to remit sales
 583 or use tax directly to the department. The procedures may
 584 provide for waiver of registration ~~and registration fees,~~
 585 provisions for irregular remittance of tax, elimination of the
 586 collection allowance, and nonapplication of local option
 587 surtaxes.

588 Section 20. Paragraph (b) of subsection (3) and paragraphs
 589 (a) and (p) of subsection (5) of section 212.08, Florida
 590 Statutes, are amended, paragraphs (ooo) and (ppp) are added to
 591 subsection (7), and subsections (19) and (20) are added to that
 592 section, to read:

593 212.08 Sales, rental, use, consumption, distribution, and
 594 storage tax; specified exemptions.—The sale at retail, the
 595 rental, the use, the consumption, the distribution, and the
 596 storage to be used or consumed in this state of the following
 597 are hereby specifically exempt from the tax imposed by this
 598 chapter.

599 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—

600 (b) The tax may not be imposed on that portion of the

601 sales price below \$25,000 ~~\$20,000~~ for a trailer weighing 12,000
 602 pounds or less and purchased by a farmer for exclusive use in
 603 agricultural production or to transport farm products from his
 604 or her farm to the place where the farmer transfers ownership of
 605 the farm products to another. This exemption is not forfeited by
 606 using a trailer to transport the farmer's farm equipment. The
 607 exemption provided under this paragraph does not apply to the
 608 lease or rental of a trailer.

609 (5) EXEMPTIONS; ACCOUNT OF USE.—

610 (a) Items in agricultural use and certain nets.—There are
 611 exempt from the tax imposed by this chapter nets designed and
 612 used exclusively by commercial fisheries; disinfectants,
 613 fertilizers, insecticides, pesticides, herbicides, fungicides,
 614 and weed killers used for application on crops or groves,
 615 including commercial nurseries and home vegetable gardens, used
 616 in dairy barns or on poultry farms for the purpose of protecting
 617 poultry or livestock, or used directly on poultry or livestock;
 618 animal health products that are administered to, applied to, or
 619 consumed by livestock or poultry to alleviate pain or cure or
 620 prevent sickness, disease, or suffering, including antiseptics,
 621 absorbent cotton, gauze for bandages, lotions, vaccines,
 622 vitamins, and worm remedies; aquaculture health products;
 623 portable containers or movable receptacles in which portable
 624 containers are placed, used for processing farm products; field
 625 and garden seeds, including flower seeds; nursery stock,

626 seedlings, cuttings, or other propagative material purchased for
 627 growing stock; seeds, seedlings, cuttings, and plants used to
 628 produce food for human consumption; cloth, plastic, and other
 629 similar materials used for shade, mulch, or protection from
 630 frost or insects on a farm; hog wire and nylon mesh netting used
 631 on a farm for protection from predatory or destructive animals;
 632 barbed wire fencing, including gates and materials used to
 633 construct or repair such fencing, used on a beef or dairy cattle
 634 farm; compressed or liquefied oxygen used in aquaculture
 635 production; stakes used by a farmer to support plants during
 636 agricultural production; generators used on poultry farms; and
 637 liquefied petroleum gas or other fuel used to heat a structure
 638 in which started pullets or broilers are raised; however, such
 639 exemption is not allowed unless the purchaser or lessee signs a
 640 certificate stating that the item to be exempted is for the
 641 exclusive use designated herein. Also exempt are cellophane
 642 wrappers, glue for tin and glass (apiarists), mailing cases for
 643 honey, shipping cases, window cartons, and baling wire and twine
 644 used for baling hay, when used by a farmer to contain, produce,
 645 or process an agricultural commodity.

646 (p) Community contribution tax credit for donations.—

647 1. Authorization.—Persons who are registered with the
 648 department under s. 212.18 to collect or remit sales or use tax
 649 and who make donations to eligible sponsors are eligible for tax
 650 credits against their state sales and use tax liabilities as

651 provided in this paragraph:

652 a. The credit shall be computed as 50 percent of the
653 person's approved annual community contribution.

654 b. The credit shall be granted as a refund against state
655 sales and use taxes reported on returns and remitted in the 12
656 months preceding the date of application to the department for
657 the credit as required in sub-subparagraph 3.c. If the annual
658 credit is not fully used through such refund because of
659 insufficient tax payments during the applicable 12-month period,
660 the unused amount may be included in an application for a refund
661 made pursuant to sub-subparagraph 3.c. in subsequent years
662 against the total tax payments made for such year. Carryover
663 credits may be applied for a 3-year period without regard to any
664 time limitation that would otherwise apply under s. 215.26.

665 c. A person may not receive more than \$200,000 in annual
666 tax credits for all approved community contributions made in any
667 one year.

668 d. All proposals for the granting of the tax credit
669 require the prior approval of the Department of Economic
670 Opportunity.

671 e. The total amount of tax credits which may be granted
672 for all programs approved under this paragraph, s. 220.183, and
673 s. 624.5105 is ~~\$18.4 million in the 2015-2016 fiscal year, \$21.4~~
674 ~~million in the 2016-2017 fiscal year, and \$21.4 million~~ each
675 fiscal year in the 2017-2018 fiscal year for projects that

676 provide housing opportunities for persons with special needs or
 677 homeownership opportunities for low-income households or very-
 678 low-income households and \$3.5 million each fiscal year for all
 679 other projects. As used in this paragraph, the term "person with
 680 special needs" has the same meaning as in s. 420.0004 and the
 681 terms "low-income person," "low-income household," "very-low-
 682 income person," and "very-low-income household" have the same
 683 meanings as in s. 420.9071.

684 f. A person who is eligible to receive the credit provided
 685 in this paragraph, s. 220.183, or s. 624.5105 may receive the
 686 credit only under one section of the person's choice.

687 2. Eligibility requirements.—

688 a. A community contribution by a person must be in the
 689 following form:

690 (I) Cash or other liquid assets;

691 (II) Real property, including 100 percent ownership of a
 692 real property holding company;

693 (III) Goods or inventory; or

694 (IV) Other physical resources identified by the Department
 695 of Economic Opportunity.

696
 697 For purposes of this subparagraph, the term "real property
 698 holding company" means a Florida entity, such as a Florida
 699 limited liability company, that is wholly owned by the person;
 700 is the sole owner of real property, as defined in s.

701 192.001(12), located in the state; is disregarded as an entity
 702 for federal income tax purposes pursuant to 26 C.F.R. s.
 703 301.7701-3(b)(1)(ii); and at the time of contribution to an
 704 eligible sponsor, has no material assets other than the real
 705 property and any other property that qualifies as a community
 706 contribution.

707 b. All community contributions must be reserved
 708 exclusively for use in a project. As used in this sub-
 709 subparagraph, the term "project" means activity undertaken by an
 710 eligible sponsor which is designed to construct, improve, or
 711 substantially rehabilitate housing that is affordable to low-
 712 income households or very-low-income households; designed to
 713 provide housing opportunities for persons with special needs;
 714 designed to provide commercial, industrial, or public resources
 715 and facilities; or designed to improve entrepreneurial and job-
 716 development opportunities for low-income persons. A project may
 717 be the investment necessary to increase access to high-speed
 718 broadband capability in a rural community that had an enterprise
 719 zone designated pursuant to chapter 290 as of May 1, 2015,
 720 including projects that result in improvements to communications
 721 assets that are owned by a business. A project may include the
 722 provision of museum educational programs and materials that are
 723 directly related to a project approved between January 1, 1996,
 724 and December 31, 1999, and located in an area which was in an
 725 enterprise zone designated pursuant to s. 290.0065 as of May 1,

726 2015. This paragraph does not preclude projects that propose to
 727 construct or rehabilitate housing for low-income households or
 728 very-low-income households on scattered sites or housing
 729 opportunities for persons with special needs. With respect to
 730 housing, contributions may be used to pay the following eligible
 731 special needs, low-income, and very-low-income housing-related
 732 activities:

733 (I) Project development impact and management fees for
 734 special needs, low-income, or very-low-income housing projects;

735 (II) Down payment and closing costs for persons with
 736 special needs, low-income persons, and very-low-income persons;

737 (III) Administrative costs, including housing counseling
 738 and marketing fees, not to exceed 10 percent of the community
 739 contribution, directly related to special needs, low-income, or
 740 very-low-income projects; and

741 (IV) Removal of liens recorded against residential
 742 property by municipal, county, or special district local
 743 governments if satisfaction of the lien is a necessary precedent
 744 to the transfer of the property to a low-income person or very-
 745 low-income person for the purpose of promoting home ownership.
 746 Contributions for lien removal must be received from a
 747 nonrelated third party.

748 c. The project must be undertaken by an "eligible
 749 sponsor," which includes:

750 (I) A community action program;

751 (II) A nonprofit community-based development organization
 752 whose mission is the provision of housing for persons with
 753 specials needs, low-income households, or very-low-income
 754 households or increasing entrepreneurial and job-development
 755 opportunities for low-income persons;

756 (III) A neighborhood housing services corporation;

757 (IV) A local housing authority created under chapter 421;

758 (V) A community redevelopment agency created under s.
 759 163.356;

760 (VI) A historic preservation district agency or
 761 organization;

762 (VII) A local workforce development board;

763 (VIII) A direct-support organization as provided in s.
 764 1009.983;

765 (IX) An enterprise zone development agency created under
 766 s. 290.0056;

767 (X) A community-based organization incorporated under
 768 chapter 617 which is recognized as educational, charitable, or
 769 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 770 and whose bylaws and articles of incorporation include
 771 affordable housing, economic development, or community
 772 development as the primary mission of the corporation;

773 (XI) Units of local government;

774 (XII) Units of state government; or

775 (XIII) Any other agency that the Department of Economic

776 Opportunity designates by rule.

777

778 A contributing person may not have a financial interest in the
779 eligible sponsor.

780 d. The project must be located in an area which was in an
781 enterprise zone designated pursuant to chapter 290 as of May 1,
782 2015, or a Front Porch Florida Community, unless the project
783 increases access to high-speed broadband capability in a rural
784 community that had an enterprise zone designated pursuant to
785 chapter 290 as of May 1, 2015, but is physically located outside
786 the designated rural zone boundaries. Any project designed to
787 construct or rehabilitate housing for low-income households or
788 very-low-income households or housing opportunities for persons
789 with special needs is exempt from the area requirement of this
790 sub-subparagraph.

791 e.(I) If, during the first 10 business days of the state
792 fiscal year, eligible tax credit applications for projects that
793 provide housing opportunities for persons with special needs or
794 homeownership opportunities for low-income households or very-
795 low-income households are received for less than the annual tax
796 credits available for those projects, the Department of Economic
797 Opportunity shall grant tax credits for those applications and
798 grant remaining tax credits on a first-come, first-served basis
799 for subsequent eligible applications received before the end of
800 the state fiscal year. If, during the first 10 business days of

801 the state fiscal year, eligible tax credit applications for
 802 projects that provide housing opportunities for persons with
 803 special needs or homeownership opportunities for low-income
 804 households or very-low-income households are received for more
 805 than the annual tax credits available for those projects, the
 806 Department of Economic Opportunity shall grant the tax credits
 807 for those applications as follows:

808 (A) If tax credit applications submitted for approved
 809 projects of an eligible sponsor do not exceed \$200,000 in total,
 810 the credits shall be granted in full if the tax credit
 811 applications are approved.

812 (B) If tax credit applications submitted for approved
 813 projects of an eligible sponsor exceed \$200,000 in total, the
 814 amount of tax credits granted pursuant to sub-sub-sub-
 815 subparagraph (A) shall be subtracted from the amount of
 816 available tax credits, and the remaining credits shall be
 817 granted to each approved tax credit application on a pro rata
 818 basis.

819 (II) If, during the first 10 business days of the state
 820 fiscal year, eligible tax credit applications for projects other
 821 than those that provide housing opportunities for persons with
 822 special needs or homeownership opportunities for low-income
 823 households or very-low-income households are received for less
 824 than the annual tax credits available for those projects, the
 825 Department of Economic Opportunity shall grant tax credits for

826 those applications and shall grant remaining tax credits on a
 827 first-come, first-served basis for subsequent eligible
 828 applications received before the end of the state fiscal year.
 829 If, during the first 10 business days of the state fiscal year,
 830 eligible tax credit applications for projects other than those
 831 that provide housing opportunities for persons with special
 832 needs or homeownership opportunities for low-income households
 833 or very-low-income households are received for more than the
 834 annual tax credits available for those projects, the Department
 835 of Economic Opportunity shall grant the tax credits for those
 836 applications on a pro rata basis.

837 3. Application requirements.-

838 a. An eligible sponsor seeking to participate in this
 839 program must submit a proposal to the Department of Economic
 840 Opportunity which sets forth the name of the sponsor, a
 841 description of the project, and the area in which the project is
 842 located, together with such supporting information as is
 843 prescribed by rule. The proposal must also contain a resolution
 844 from the local governmental unit in which the project is located
 845 certifying that the project is consistent with local plans and
 846 regulations.

847 b. A person seeking to participate in this program must
 848 submit an application for tax credit to the Department of
 849 Economic Opportunity which sets forth the name of the sponsor, a
 850 description of the project, and the type, value, and purpose of

851 the contribution. The sponsor shall verify, in writing, the
 852 terms of the application and indicate its receipt of the
 853 contribution, and such verification must accompany the
 854 application for tax credit. The person must submit a separate
 855 tax credit application to the Department of Economic Opportunity
 856 for each individual contribution that it makes to each
 857 individual project.

858 c. A person who has received notification from the
 859 Department of Economic Opportunity that a tax credit has been
 860 approved must apply to the department to receive the refund.
 861 Application must be made on the form prescribed for claiming
 862 refunds of sales and use taxes and be accompanied by a copy of
 863 the notification. A person may submit only one application for
 864 refund to the department within a 12-month period.

865 4. Administration.—

866 a. The Department of Economic Opportunity may adopt rules
 867 necessary to administer this paragraph, including rules for the
 868 approval or disapproval of proposals by a person.

869 b. The decision of the Department of Economic Opportunity
 870 must be in writing, and, if approved, the notification shall
 871 state the maximum credit allowable to the person. Upon approval,
 872 the Department of Economic Opportunity shall transmit a copy of
 873 the decision to the department.

874 c. The Department of Economic Opportunity shall
 875 periodically monitor all projects in a manner consistent with

876 available resources to ensure that resources are used in
 877 accordance with this paragraph; however, each project must be
 878 reviewed at least once every 2 years.

879 d. The Department of Economic Opportunity shall, in
 880 consultation with the statewide and regional housing and
 881 financial intermediaries, market the availability of the
 882 community contribution tax credit program to community-based
 883 organizations.

884 5. Expiration.—This paragraph expires June 30, 2019 ~~2018~~;
 885 however, any accrued credit carryover that is unused on that
 886 date may be used until the expiration of the 3-year carryover
 887 period for such credit.

888 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 889 entity by this chapter do not inure to any transaction that is
 890 otherwise taxable under this chapter when payment is made by a
 891 representative or employee of the entity by any means,
 892 including, but not limited to, cash, check, or credit card, even
 893 when that representative or employee is subsequently reimbursed
 894 by the entity. In addition, exemptions provided to any entity by
 895 this subsection do not inure to any transaction that is
 896 otherwise taxable under this chapter unless the entity has
 897 obtained a sales tax exemption certificate from the department
 898 or the entity obtains or provides other documentation as
 899 required by the department. Eligible purchases or leases made
 900 with such a certificate must be in strict compliance with this

901 subsection and departmental rules, and any person who makes an
 902 exempt purchase with a certificate that is not in strict
 903 compliance with this subsection and the rules is liable for and
 904 shall pay the tax. The department may adopt rules to administer
 905 this subsection.

906 (ooo) Products used to absorb menstrual flow.—Effective
 907 January 1, 2018, products used to absorb menstrual flow are
 908 exempt from the tax imposed by this chapter. As used in this
 909 paragraph, the term "products used to absorb menstrual flow"
 910 means products used to absorb or contain menstrual flow,
 911 including, but not limited to, tampons, sanitary napkins,
 912 pant liners, and menstrual cups.

913 (ppp) Diapers and incontinence products.—Effective January
 914 1, 2018, diapers, incontinence undergarments, incontinence pads,
 915 and incontinence liners for use by humans are exempt from the
 916 tax imposed by this chapter.

917 (19) SALES TAX HOLIDAY FOR VETERANS OF THE UNITED STATES
 918 ARMED FORCES.—

919 (a) The tax levied under chapter 212, Florida Statutes,
 920 may not be collected from a veteran, as defined in paragraph
 921 (b), during the period from 12:01 a.m. on November 11 through
 922 11:59 p.m. on November 11, annually, on the retail sale, as
 923 defined in s. 212.02(14), of clothing with a sales price of \$60
 924 or less per item. As used in this paragraph, the term "clothing"
 925 means:

926 1. Any article of wearing apparel intended to be worn on
 927 or about the human body, excluding watches, watchbands, jewelry,
 928 umbrellas, and handkerchiefs.

929 2. All footwear, excluding skis, swim fins, roller blades,
 930 and skates.

931 (b) Notwithstanding any action by the United States
 932 Department of Veterans Affairs relating to dishonorable
 933 discharges, the term "veteran" means a person who served in the
 934 active military, naval, or air service who was honorably
 935 discharged or released or who later received an upgraded
 936 honorable discharge or release. To be eligible for the sales tax
 937 holiday, a veteran must show proof of military status at the
 938 time he or she purchases the eligible items. The veteran may
 939 show proof of military status by presenting his or her:

940 1. DD Form 2, Uniformed Services Identification Card,
 941 issued by the United States Department of Defense;

942 2. DD Form 2765, Uniformed Services Identification and
 943 Privilege Card, issued by the United States Department of
 944 Defense;

945 3. DD Form 214, displaying the term "Honorable," issued by
 946 the United States Department of Defense;

947 4. Veteran identification card, issued to a veteran with a
 948 100-percent disability by the Department of Veterans' Affairs
 949 under s. 295.17;

950 5. Veteran health identification card, issued by the

951 United States Department of Veterans Affairs;
 952 6. Valid driver license or identification card, displaying
 953 the letter "V" or the term "Veteran," issued by the Department
 954 of Highway Safety and Motor Vehicles; or
 955 7. Any other proof of veteran status issued by the
 956 Department of Highway Safety and Motor Vehicles.
 957 (c) A retailer making tax-exempt sales under this
 958 subsection shall report to the Department of Revenue the amount
 959 of its gross sales on the retailer's sales and use tax return.
 960 (d) The tax exemptions provided in this subsection do not
 961 apply to sales within a theme park or entertainment complex as
 962 defined in s. 509.013(9), within a public lodging establishment
 963 as defined in s. 509.013(4), or within an airport as defined in
 964 s. 330.27(2).
 965 (e) The tax exemptions provided in this subsection apply
 966 at the option of a retailer if less than 5 percent of the
 967 retailer's gross sales of tangible personal property in the
 968 prior calendar year are comprised of clothing as defined in
 969 paragraph (a) with a sales price of \$60 or less per item. If a
 970 qualifying retailer chooses not to participate in the sales tax
 971 holiday, the retailer must notify the Department of Revenue in
 972 writing, by November 1, annually, of its election to collect
 973 sales tax during the holiday and must post a copy of that notice
 974 in a conspicuous location at its place of business.
 975 (f) The Department of Revenue may adopt rules to

976 | administer this subsection.

977 | (20) DODD-FRANK EXEMPTION.—Tangible personal property or
 978 | services otherwise taxable under this chapter and sold by a
 979 | vendor to a related person, as described in 26 U.S.C. s. 267(b),
 980 | are exempt from the tax imposed by this chapter, except for the
 981 | taxes imposed by s. 212.031, if the purchaser can show that the
 982 | following conditions have been met:

983 | (a)1. The vendor and the purchaser are referenced as a
 984 | "covered company," as defined in 12 C.F.R. s. 243.2(f), or a
 985 | "material entity," as defined in 12 C.F.R. s. 243.2(1), in a
 986 | resolution plan that has been submitted to an agency of the
 987 | United States to satisfy 12 U.S.C. s. 5365(d)(1) or any
 988 | successor law; or

989 | 2. The vendor and the purchaser are separate legal
 990 | entities pursuant to a divestiture directed pursuant to 12
 991 | U.S.C. s. 5365(d)(5) or any successor law; and

992 | (b) The sale would not have occurred between such related
 993 | entities were it not for such resolution plan or divestiture;

994 | (c) The services sold by the vendor to the purchaser are
 995 | performed by an employee of the vendor or by an independent
 996 | contractor hired by the vendor, if the vendor paid the tax
 997 | imposed under this chapter; and

998 | (d) In acquiring such property or services, the vendor did
 999 | not claim an exemption from the tax imposed under this chapter
 1000 | or by another state.

1001 Section 21. Effective January 1, 2018, paragraphs (a) and
 1002 (c) of subsection (3) of section 212.18, Florida Statutes, are
 1003 amended to read:

1004 212.18 Administration of law; registration of dealers;
 1005 rules.—

1006 (3)(a) A person desiring to engage in or conduct business
 1007 in this state as a dealer, or to lease, rent, or let or grant
 1008 licenses in living quarters or sleeping or housekeeping
 1009 accommodations in hotels, apartment houses, roominghouses, or
 1010 tourist or trailer camps that are subject to tax under s.
 1011 212.03, or to lease, rent, or let or grant licenses in real
 1012 property, and a person who sells or receives anything of value
 1013 by way of admissions, must file with the department an
 1014 application for a certificate of registration for each place of
 1015 business. The application must include the names of the persons
 1016 who have interests in such business and their residences, the
 1017 address of the business, and other data reasonably required by
 1018 the department. However, owners and operators of vending
 1019 machines or newspaper rack machines are required to obtain only
 1020 one certificate of registration for each county in which such
 1021 machines are located. The department, by rule, may authorize a
 1022 dealer that uses independent sellers to sell its merchandise to
 1023 remit tax on the retail sales price charged to the ultimate
 1024 consumer in lieu of having the independent seller register as a
 1025 dealer and remit the tax. The department may appoint the county

1026 tax collector as the department's agent to accept applications
 1027 for registrations. The application must be submitted to the
 1028 department before the person, firm, copartnership, or
 1029 corporation may engage in such business, ~~and it must be~~
 1030 ~~accompanied by a registration fee of \$5. However, a registration~~
 1031 ~~fee is not required to accompany an application to engage in or~~
 1032 ~~conduct business to make mail order sales. The department may~~
 1033 ~~waive the registration fee for applications submitted through~~
 1034 ~~the department's Internet registration process.~~

1035 (c)1. A person who engages in acts requiring a certificate
 1036 of registration under this subsection and who fails or refuses
 1037 to register commits a misdemeanor of the first degree,
 1038 punishable as provided in s. 775.082 or s. 775.083. Such acts
 1039 are subject to injunctive proceedings as provided by law. A
 1040 person who engages in acts requiring a certificate of
 1041 registration and who fails or refuses to register is also
 1042 subject to a \$100 ~~initial~~ registration fee ~~in lieu of the \$5~~
 1043 ~~registration fee required by paragraph (a).~~ However, the
 1044 department may waive ~~the increase in~~ the registration fee if it
 1045 finds that the failure to register was due to reasonable cause
 1046 and not to willful negligence, willful neglect, or fraud.

1047 2.a. A person who willfully fails to register after the
 1048 department provides notice of the duty to register as a dealer
 1049 commits a felony of the third degree, punishable as provided in
 1050 s. 775.082, s. 775.083, or s. 775.084.

1051 b. The department shall provide written notice of the duty
 1052 to register to the person by personal service or by sending
 1053 notice by registered mail to the person's last known address.
 1054 The department may provide written notice by both methods
 1055 described in this sub-subparagraph.

1056 Section 22. Paragraphs (d) and (t) of subsection (1) of
 1057 section 220.03, Florida Statutes, are amended to read:

1058 220.03 Definitions.—

1059 (1) SPECIFIC TERMS.—When used in this code, and when not
 1060 otherwise distinctly expressed or manifestly incompatible with
 1061 the intent thereof, the following terms shall have the following
 1062 meanings:

1063 (d) "Community Contribution" means the grant by a business
 1064 firm of any of the following items:

- 1065 1. Cash or other liquid assets.
- 1066 2. Real property, which for purposes of this subparagraph
 1067 includes 100 percent ownership of a real property holding
 1068 company. The term "real property holding company" means a
 1069 Florida entity, such as a Florida limited liability company,
 1070 that:

- 1071 a. Is wholly owned by the business firm.
- 1072 b. Is the sole owner of real property, as defined in s.
 1073 192.001(12), located in the state.
- 1074 c. Is disregarded as an entity for federal income tax
 1075 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).

1076 d. At the time of contribution to an eligible sponsor, has
 1077 no material assets other than the real property and any other
 1078 property that qualifies as a community contribution.

1079 3. Goods or inventory.

1080 4. Other physical resources as identified by the
 1081 department.

1082

1083 This paragraph expires June 30, 2019 ~~2018~~.

1084 (t) "Project" means any activity undertaken by an eligible
 1085 sponsor, as defined in s. 220.183(2)(c), which is designed to
 1086 construct, improve, or substantially rehabilitate housing that
 1087 is affordable to low-income or very-low-income households as
 1088 defined in s. 420.9071(19) and (28); designed to provide housing
 1089 opportunities for persons with special needs as defined in s.
 1090 420.0004; designed to provide commercial, industrial, or public
 1091 resources and facilities; or designed to improve entrepreneurial
 1092 and job-development opportunities for low-income persons. A
 1093 project may be the investment necessary to increase access to
 1094 high-speed broadband capability in a rural community that had an
 1095 enterprise zone designated pursuant to chapter 290 as of May 1,
 1096 2015, including projects that result in improvements to
 1097 communications assets that are owned by a business. A project
 1098 may include the provision of museum educational programs and
 1099 materials that are directly related to any project approved
 1100 between January 1, 1996, and December 31, 1999, and located in

1101 an area that was in an enterprise zone designated pursuant to s.
 1102 290.0065 as of May 1, 2015. This paragraph does not preclude
 1103 projects that propose to construct or rehabilitate low-income or
 1104 very-low-income housing on scattered sites or housing
 1105 opportunities for persons with special needs as defined in s.
 1106 420.0004. With respect to housing, contributions may be used to
 1107 pay the following eligible project-related activities:

- 1108 1. Project development, impact, and management fees for
 1109 special needs, low-income, or very-low-income housing projects;
- 1110 2. Down payment and closing costs for eligible persons, as
 1111 defined in s. 420.9071(19) and (28);
- 1112 3. Administrative costs, including housing counseling and
 1113 marketing fees, not to exceed 10 percent of the community
 1114 contribution, directly related to special needs, low-income, or
 1115 very-low-income projects; and
- 1116 4. Removal of liens recorded against residential property
 1117 by municipal, county, or special-district local governments when
 1118 satisfaction of the lien is a necessary precedent to the
 1119 transfer of the property to an eligible person, as defined in s.
 1120 420.9071(19) and (28), for the purpose of promoting home
 1121 ownership. Contributions for lien removal must be received from
 1122 a nonrelated third party.

1123

1124 This paragraph expires June 30, 2019 ~~2018~~.

1125 Section 23. Paragraph (c) of subsection (1) and subsection

1126 (5) of section 220.183, Florida Statutes, are amended to read:

1127 220.183 Community contribution tax credit.—

1128 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
 1129 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
 1130 SPENDING.—

1131 (c) The total amount of tax credit which may be granted
 1132 for all programs approved under this section, s. 212.08(5)(p),
 1133 and s. 624.5105 is ~~\$18.4 million in the 2015-2016 fiscal year,~~
 1134 ~~\$21.4 million in the 2016-2017 fiscal year,~~ and \$21.4 million
 1135 each fiscal year in the 2017-2018 fiscal year for projects that
 1136 provide housing opportunities for persons with special needs as
 1137 defined in s. 420.0004 and homeownership opportunities for low-
 1138 income households or very-low-income households as defined in s.
 1139 420.9071 and \$3.5 million each fiscal year ~~annually~~ for all
 1140 other projects.

1141 (5) EXPIRATION.—The provisions of this section, except
 1142 paragraph (1)(e), expire June 30, 2019 ~~2018~~.

1143 Section 24. Paragraph (f) of subsection (2) of section
 1144 220.1845, Florida Statutes, is amended to read:

1145 220.1845 Contaminated site rehabilitation tax credit.—

1146 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

1147 (f) The total amount of the tax credits which may be
 1148 granted under this section is \$20 ~~\$21.6~~ million in the 2017-2018
 1149 ~~2015-2016~~ fiscal year and \$10 ~~\$5~~ million annually thereafter.

1150 Section 25. Paragraph (e) of subsection (2) of section

1151 220.196, Florida Statutes, is amended to read:

1152 220.196 Research and development tax credit.—

1153 (2) TAX CREDIT.—

1154 (e) The combined total amount of tax credits which may be
 1155 granted to all business enterprises under this section during
 1156 any calendar year is \$9 million, except that the total amount
 1157 that may be awarded in the 2018 ~~2016~~ calendar year is \$20 ~~\$23~~
 1158 million. Applications may be filed with the department on or
 1159 after March 20 and before March 27 for qualified research
 1160 expenses incurred within the preceding calendar year. If the
 1161 total credits for all applicants exceed the maximum amount
 1162 allowed under this paragraph, the credits shall be allocated on
 1163 a prorated basis.

1164 Section 26. Paragraph (d) of subsection (2) of section
 1165 220.222, Florida Statutes, is amended to read:

1166 220.222 Returns; time and place for filing.—

1167 (2)

1168 (d) For taxable years beginning before January 1, 2026,
 1169 the 6-month time period in paragraphs (a) and (b) shall be 7
 1170 months for taxpayers with a taxable year ending June 30 ~~and~~
 1171 ~~shall be 5 months for taxpayers with a taxable year ending~~
 1172 ~~December 31.~~

1173 Section 27. Subsection (7) of section 220.33, Florida
 1174 Statutes, is renumbered as subsection (8), and a new subsection
 1175 (7) is added to that section to read:

1176 220.33 Payments of estimated tax.—A taxpayer required to
 1177 file a declaration of estimated tax pursuant to s. 220.24 shall
 1178 pay such estimated tax as follows:

1179 (7) Notwithstanding any administrative rule or
 1180 determination of the department that authorizes estimated
 1181 payments otherwise due on a Saturday, Sunday, or legal holiday
 1182 to be paid on the next succeeding day that is not a Saturday,
 1183 Sunday, or legal holiday, any estimated tax payment required
 1184 under this section that would otherwise be due on the last
 1185 Saturday or Sunday of June shall be paid on or before the last
 1186 Friday of June.

1187 Section 28. Subsection (13) of section 320.08, Florida
 1188 Statutes, is amended to read:

1189 320.08 License taxes.—Except as otherwise provided herein,
 1190 there are hereby levied and imposed annual license taxes for the
 1191 operation of motor vehicles, mopeds, motorized bicycles as
 1192 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
 1193 and mobile homes as defined in s. 320.01, which shall be paid to
 1194 and collected by the department or its agent upon the
 1195 registration or renewal of registration of the following:

1196 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
 1197 official license plate: \$4 flat, of which \$1 shall be deposited
 1198 into the General Revenue Fund, except that the registration or
 1199 renewal of registration of marine boat trailers exempt under
 1200 320.10(k) is not subject to any license tax.

1201 Section 29. Paragraphs (i) and (j) of subsection (1) of
 1202 section 320.10, Florida Statutes, are amended, and paragraph (k)
 1203 is added to that subsection, to read:

1204 320.10 Exemptions.—

1205 (1) The provisions of s. 320.08 do not apply to:

1206 (i) Any vehicle used by any of the various search and
 1207 rescue units of the several counties for exclusive use as a
 1208 search and rescue vehicle; ~~or~~

1209 (j) Any motor vehicle used by a community transportation
 1210 coordinator or a transportation operator as defined in part I of
 1211 chapter 427, and which is used exclusively to transport
 1212 transportation disadvantaged persons; or

1213 (k) Any marine boat trailer owned and operated by a
 1214 nonprofit organization that is exempt from federal income tax
 1215 under s. 501(c)(3) of the Internal Revenue Code and which is
 1216 used exclusively in carrying on its customary nonprofit
 1217 activities.

1218 Section 30. Section 320.102, Florida Statutes, is created
 1219 to read:

1220 320.102 Certain marine boat trailers; exemption. — The
 1221 registration or renewal of registration of any marine boat
 1222 trailer owned and operated by a nonprofit organization that is
 1223 exempt under s. 501(c)(3) of the Internal Revenue Code and which
 1224 is used exclusively in carrying on their customary nonprofit
 1225 activities, is exempt from paying the fees in ss. 320.03(5),

1226 320.03(6), 320.03(9), 320.031(2), 320.04(1)(a), 320.04(1)(b),
 1227 320.04(1)(c), 320.06(1)(b), 320.06(3)(b), 320.0801, 320.0802,
 1228 320.0804, and 320.08046.

1229 Section 31. Effective upon this act becoming a law,
 1230 subsection (5) of section 336.021, Florida Statutes, is amended
 1231 to read:

1232 336.021 County transportation system; levy of ninth-cent
 1233 fuel tax on motor fuel and diesel fuel.—

1234 (5) All impositions of the tax shall be levied before
 1235 October 1 of each year to be effective January 1 of the
 1236 following year. However, levies of the tax which were in effect
 1237 on July 1, 2002, and which expire on August 31 of any year may
 1238 be reimposed at the current authorized rate provided the tax is
 1239 levied before July 1 and is ~~to be~~ effective September 1 of the
 1240 year of expiration. All impositions shall be required to end on
 1241 December 31 of a year. A decision to rescind the tax shall not
 1242 take effect on any date other than December 31 and shall require
 1243 a minimum of 60 days' notice to the department of such decision.

1244 Section 32. Effective upon this act becoming a law,
 1245 paragraphs (a) and (b) of subsection (1) and paragraph (a) of
 1246 subsection (5) of section 336.025, Florida Statutes, are amended
 1247 to read:

1248 336.025 County transportation system; levy of local option
 1249 fuel tax on motor fuel and diesel fuel.—

1250 (1)(a) In addition to other taxes allowed by law, there

1251 may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a
 1252 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option
 1253 fuel tax upon every gallon of motor fuel and diesel fuel sold in
 1254 a county and taxed under the provisions of part I or part II of
 1255 chapter 206.

1256 1. All impositions and rate changes of the tax shall be
 1257 levied before October 1 to be effective January 1 of the
 1258 following year for a period not to exceed 30 years, and the
 1259 applicable method of distribution shall be established pursuant
 1260 to subsection (3) or subsection (4). However, levies of the tax
 1261 which were in effect on July 1, 2002, and which expire on August
 1262 31 of any year may be reimposed at the current authorized rate
 1263 provided the tax is levied before July 1 and is effective
 1264 September 1 of the year of expiration. Upon expiration, the tax
 1265 may be releived provided that a redetermination of the method of
 1266 distribution is made as provided in this section.

1267 2. County and municipal governments shall utilize moneys
 1268 received pursuant to this paragraph only for transportation
 1269 expenditures.

1270 3. Any tax levied pursuant to this paragraph may be
 1271 extended on a majority vote of the governing body of the county.
 1272 A redetermination of the method of distribution shall be
 1273 established pursuant to subsection (3) or subsection (4), if,
 1274 after July 1, 1986, the tax is extended or the tax rate changed,
 1275 for the period of extension or for the additional tax.

1276 (b) In addition to other taxes allowed by law, there may
 1277 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-
 1278 cent, 4-cent, or 5-cent local option fuel tax upon every gallon
 1279 of motor fuel sold in a county and taxed under the provisions of
 1280 part I of chapter 206. The tax shall be levied by an ordinance
 1281 adopted by a majority plus one vote of the membership of the
 1282 governing body of the county or by referendum.

1283 1. All impositions and rate changes of the tax shall be
 1284 levied before October 1, to be effective January 1 of the
 1285 following year. However, levies of the tax which were in effect
 1286 on July 1, 2002, and which expire on August 31 of any year may
 1287 be reimposed at the current authorized rate provided that the
 1288 tax is levied before July 1 and is effective September 1 of the
 1289 year of expiration.

1290 2. The county may, prior to levy of the tax, establish by
 1291 interlocal agreement with one or more municipalities located
 1292 therein, representing a majority of the population of the
 1293 incorporated area within the county, a distribution formula for
 1294 dividing the entire proceeds of the tax among county government
 1295 and all eligible municipalities within the county. If no
 1296 interlocal agreement is adopted before the effective date of the
 1297 tax, tax revenues shall be distributed pursuant to the
 1298 provisions of subsection (4). If no interlocal agreement exists,
 1299 a new interlocal agreement may be established prior to June 1 of
 1300 any year pursuant to this subparagraph. However, any interlocal

1301 agreement agreed to under this subparagraph after the initial
 1302 levy of the tax or change in the tax rate authorized in this
 1303 section shall under no circumstances materially or adversely
 1304 affect the rights of holders of outstanding bonds which are
 1305 backed by taxes authorized by this paragraph, and the amounts
 1306 distributed to the county government and each municipality shall
 1307 not be reduced below the amount necessary for the payment of
 1308 principal and interest and reserves for principal and interest
 1309 as required under the covenants of any bond resolution
 1310 outstanding on the date of establishment of the new interlocal
 1311 agreement.

1312 3. County and municipal governments shall use moneys
 1313 received pursuant to this paragraph for transportation
 1314 expenditures needed to meet the requirements of the capital
 1315 improvements element of an adopted comprehensive plan or for
 1316 expenditures needed to meet immediate local transportation
 1317 problems and for other transportation-related expenditures that
 1318 are critical for building comprehensive roadway networks by
 1319 local governments. For purposes of this paragraph, expenditures
 1320 for the construction of new roads, the reconstruction or
 1321 resurfacing of existing paved roads, or the paving of existing
 1322 graded roads shall be deemed to increase capacity and such
 1323 projects shall be included in the capital improvements element
 1324 of an adopted comprehensive plan. Expenditures for purposes of
 1325 this paragraph shall not include routine maintenance of roads.

1326 (5) (a) By October 1 of each year, the county shall notify
 1327 the Department of Revenue of the rate of the taxes levied
 1328 pursuant to paragraphs (1) (a) and (b), and of its decision to
 1329 rescind or change the rate of a tax, if applicable, and shall
 1330 provide the department with a certified copy of the interlocal
 1331 agreement established under subparagraph (1) (b)2. or
 1332 subparagraph (3) (a)1. with distribution proportions established
 1333 by such agreement or pursuant to subsection (4), if applicable.
 1334 A decision to rescind a tax may not take effect on any date
 1335 other than December 31, regardless of when the tax was
 1336 originally imposed, and requires a minimum of 60 days' notice to
 1337 the Department of Revenue of such decision.

1338 Section 33. Subsection (4) of section 376.30781, Florida
 1339 Statutes, is amended to read:

1340 376.30781 Tax credits for rehabilitation of drycleaning-
 1341 solvent-contaminated sites and brownfield sites in designated
 1342 brownfield areas; application process; rulemaking authority;
 1343 revocation authority.-

1344 (4) The Department of Environmental Protection is
 1345 responsible for allocating the tax credits provided for in s.
 1346 220.1845, which may not exceed a total of \$20 ~~\$21.6~~ million in
 1347 tax credits in the 2017-2018 ~~2015-2016~~ fiscal year and \$10 ~~\$5~~
 1348 million in tax credits annually thereafter.

1349 Section 34. Effective January 1, 2018, subsection (2) of
 1350 section 376.70, Florida Statutes, is amended to read:

1351 376.70 Tax on gross receipts of drycleaning facilities.-

1352 (2) Each drycleaning facility or dry drop-off facility
 1353 imposing a charge for the drycleaning or laundering of clothing
 1354 or other fabrics is required to register with the Department of
 1355 Revenue and become licensed for the purposes of this section.
 1356 The owner or operator of the facility shall register the
 1357 facility with the Department of Revenue. Drycleaning facilities
 1358 or dry drop-off facilities operating at more than one location
 1359 are only required to have a single registration. ~~The fee for~~
 1360 ~~registration is \$30. The owner or operator of the facility shall~~
 1361 ~~pay the registration fee to the Department of Revenue. The~~
 1362 ~~department may waive the registration fee for applications~~
 1363 ~~submitted through the department's Internet registration~~
 1364 ~~process.~~

1365 Section 35. Effective upon this act becoming a law,
 1366 section 376.71, Florida Statutes, is amended to read:

1367 376.71 ~~Registration fee and~~ Gross receipts tax; exemption
 1368 ~~exemptions.~~-The ~~registration fee and the~~ gross receipts tax
 1369 imposed under s. ss. 376.303(1)(d) does ~~and 376.70 do~~ not apply
 1370 to uniform rental companies or linen supply companies.

1371 Section 36. Effective upon this act becoming a law,
 1372 subsection (2) of section 376.75, Florida Statutes, is amended
 1373 to read:

1374 376.75 Tax on production or importation of
 1375 perchloroethylene.-

1376 (2) Any person producing in, importing into, or causing to
 1377 be imported into, or selling in, this state perchloroethylene
 1378 must register with the Department of Revenue and become licensed
 1379 for the purposes of remitting the tax pursuant to, or providing
 1380 information required by, this section. Such person must register
 1381 as a seller of perchloroethylene, a user of perchloroethylene in
 1382 drycleaning facilities, or a user of perchloroethylene for
 1383 purposes other than drycleaning. Persons operating at more than
 1384 one location are only required to have a single registration.
 1385 ~~The fee for registration is \$30.~~ Failure to timely register is a
 1386 misdemeanor of the first degree, punishable as provided in s.
 1387 775.082 or s. 775.083.

1388 Section 37. Effective upon this act becoming a law,
 1389 subsection (1) of section 443.131, Florida Statutes, is amended
 1390 to read:

1391 443.131 Contributions.—

1392 (1) PAYMENT OF CONTRIBUTIONS.—Contributions accrue and are
 1393 payable by each employer for each calendar quarter he or she is
 1394 subject to this chapter for wages paid during each calendar
 1395 quarter for employment. Contributions are due and payable by
 1396 each employer to the tax collection service provider, in
 1397 accordance with the rules adopted by the Department of Economic
 1398 Opportunity or the state agency providing tax collection
 1399 services. This subsection does not prohibit the tax collection
 1400 service provider from allowing, at the request of the employer,

1401 employers of employees performing domestic services, as defined
 1402 in s. 443.1216(6), to pay contributions or report wages at
 1403 intervals other than quarterly when the nonquarterly payment or
 1404 reporting assists the service provider and when nonquarterly
 1405 payment and reporting is authorized under federal law. Employers
 1406 of employees performing domestic services may report wages and
 1407 pay contributions annually, with a due date of no later than
 1408 January 31 unless the 31st is a Saturday, Sunday, or holiday in
 1409 which event the due date will be the next day that is not a
 1410 Saturday, Sunday, or holiday ~~January 1 and a delinquency date of~~
 1411 ~~February 1.~~ For purposes of this subsection, the term "holiday"
 1412 has the same meaning as set forth in s. 110.117(1) and (2) and
 1413 includes any day on which the United States Postal Service
 1414 offices are closed. To qualify for this election, the employer
 1415 must employ only employees performing domestic services, be
 1416 eligible for a variation from the standard rate computed under
 1417 subsection (3), apply to this program no later than December 1
 1418 of the preceding calendar year, and agree to provide the
 1419 department or its tax collection service provider with any
 1420 special reports that are requested, including copies of all
 1421 federal employment tax forms. An employer who fails to timely
 1422 furnish any wage information required by the department or its
 1423 tax collection service provider loses the privilege to
 1424 participate in this program, effective the calendar quarter
 1425 immediately after the calendar quarter the failure occurred. The

1426 employer may reapply for annual reporting when a complete
 1427 calendar year elapses after the employer's disqualification if
 1428 the employer timely furnished any requested wage information
 1429 during the period in which annual reporting was denied. An
 1430 employer may not deduct contributions, interests, penalties,
 1431 fines, or fees required under this chapter from any part of the
 1432 wages of his or her employees. A fractional part of a cent less
 1433 than one-half cent shall be disregarded from the payment of
 1434 contributions, but a fractional part of at least one-half cent
 1435 shall be increased to 1 cent.

1436 Section 38. Effective upon this act becoming a law,
 1437 paragraph (d) of subsection (1) of section 443.141, Florida
 1438 Statutes, is amended to read:

1439 443.141 Collection of contributions and reimbursements.—

1440 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
 1441 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1442 (d) Payments for contributions.—For an annual
 1443 administrative fee not to exceed \$5, a contributing employer may
 1444 pay its quarterly contributions due for wages paid in the first
 1445 three quarters of each year in equal installments if those
 1446 contributions are paid as follows:

1447 1. For contributions due for wages paid in the first
 1448 quarter of each year, one-fourth of the contributions due must
 1449 be paid on or before April 30, one-fourth must be paid on or
 1450 before July 31, one-fourth must be paid on or before October 31,

1451 and one-fourth must be paid on or before December 31.

1452 2. In addition to the payments specified in subparagraph
1453 1., for contributions due for wages paid in the second quarter
1454 of each year, one-third of the contributions due must be paid on
1455 or before July 31, one-third must be paid on or before October
1456 31, and one-third must be paid on or before December 31.

1457 3. In addition to the payments specified in subparagraphs
1458 1. and 2., for contributions due for wages paid in the third
1459 quarter of each year, one-half of the contributions due must be
1460 paid on or before October 31, and one-half must be paid on or
1461 before December 31.

1462 4. If any of the due dates listed in this paragraph fall
1463 on a Saturday, Sunday, or holiday, the due date will be the next
1464 day that is not a Saturday, Sunday, or holiday. For purposes of
1465 this paragraph, the term "holiday" has the same meaning as set
1466 forth in s. 110.117(1) and (2) and includes any day on which the
1467 United States Postal Service offices are closed.

1468 ~~5.4.~~ The annual administrative fee assessed for electing
1469 to pay under the installment method shall be collected at the
1470 time the employer makes the first installment payment each year.
1471 The fee shall be segregated from the payment and deposited into
1472 the Operating Trust Fund of the Department of Revenue.

1473 ~~6.5.~~ Interest does not accrue on any contribution that
1474 becomes due for wages paid in the first three quarters of each
1475 year if the employer pays the contribution in accordance with

1476 subparagraphs 1.-5. ~~1.-4.~~ Interest and fees continue to accrue
 1477 on prior delinquent contributions and commence accruing on all
 1478 contributions due for wages paid in the first three quarters of
 1479 each year which are not paid in accordance with subparagraphs
 1480 1.-4. ~~1.-3.~~ Penalties may be assessed in accordance with this
 1481 chapter. The contributions due for wages paid in the fourth
 1482 quarter are not affected by this paragraph and are due and
 1483 payable in accordance with this chapter.

1484 Section 39. Effective upon this act becoming a law,
 1485 section 443.163, Florida Statutes, is amended to read:

1486 443.163 Electronic reporting and remitting of
 1487 contributions and reimbursements.—

1488 (1) An employer may file any report and remit any
 1489 contributions or reimbursements required under this chapter by
 1490 electronic means. The Department of Economic Opportunity or the
 1491 state agency providing reemployment assistance tax collection
 1492 services shall adopt rules prescribing the format and
 1493 instructions necessary for electronically filing reports and
 1494 remitting contributions and reimbursements to ensure a full
 1495 collection of contributions and reimbursements due. The
 1496 acceptable method of transfer, the method, form, and content of
 1497 the electronic means, and the method, if any, by which the
 1498 employer will be provided with an acknowledgment shall be
 1499 prescribed by the department or its tax collection service
 1500 provider. However, any employer who employed 10 or more

1501 employees in any quarter during the preceding state fiscal year
 1502 must file the Employers Quarterly Reports ~~(UCT-6)~~ for the
 1503 current calendar year and remit the contributions and
 1504 reimbursements due by electronic means approved by the tax
 1505 collection service provider. A person who prepared and reported
 1506 for 100 or more employers in any quarter during the preceding
 1507 state fiscal year must file the Employers Quarterly Reports
 1508 ~~(UCT-6)~~ for each calendar quarter in the current calendar year,
 1509 beginning with reports due for the second calendar quarter of
 1510 2003, by electronic means approved by the tax collection service
 1511 provider.

1512 (2) (a) An employer who is required by law to file an
 1513 Employers Quarterly Report ~~(UCT-6)~~ by approved electronic means,
 1514 but who files the report by a means other than approved
 1515 electronic means, is liable for a penalty of \$50 for that report
 1516 and \$1 for each employee. This penalty is in addition to any
 1517 other penalty provided by this chapter. However, the penalty
 1518 does not apply if the tax collection service provider waives the
 1519 electronic filing requirement in advance. An employer who fails
 1520 to remit contributions or reimbursements by approved electronic
 1521 means as required by law is liable for a penalty of \$50 for each
 1522 remittance submitted by a means other than approved electronic
 1523 means. This penalty is in addition to any other penalty provided
 1524 by this chapter.

1525 (b) A person who prepared and reported for 100 or more

1526 employers in any quarter during the preceding state fiscal year,
 1527 but who fails to file an Employers Quarterly Report ~~(UCT-6)~~ for
 1528 each calendar quarter in the current calendar year by approved
 1529 electronic means, is liable for a penalty of \$50 for that report
 1530 and \$1 for each employee. This penalty is in addition to any
 1531 other penalty provided by this chapter. However, the penalty
 1532 does not apply if the tax collection service provider waives the
 1533 electronic filing requirement in advance.

1534 (3) The tax collection service provider may waive the
 1535 requirement to file an Employers Quarterly Report ~~(UCT-6)~~ by
 1536 electronic means for employers that are unable to comply despite
 1537 good faith efforts or due to circumstances beyond the employer's
 1538 reasonable control.

1539 (a) As prescribed by the Department of Economic
 1540 Opportunity or its tax collection service provider, grounds for
 1541 approving the waiver include, but are not limited to,
 1542 circumstances in which the employer does not:

1543 1. Currently file information or data electronically with
 1544 any business or government agency; or

1545 2. Have a compatible computer that meets or exceeds the
 1546 standards prescribed by the department or its tax collection
 1547 service provider.

1548 (b) The tax collection service provider shall accept other
 1549 reasons for requesting a waiver from the requirement to submit
 1550 the Employers Quarterly Report ~~(UCT-6)~~ by electronic means,

1551 including, but not limited to:

1552 1. That the employer needs additional time to program his
1553 or her computer;

1554 2. That complying with this requirement causes the
1555 employer financial hardship; or

1556 3. That complying with this requirement conflicts with the
1557 employer's business procedures.

1558 (c) The department or the state agency providing
1559 reemployment assistance tax collection services may establish by
1560 rule the length of time a waiver is valid and may determine
1561 whether subsequent waivers will be authorized, based on this
1562 subsection.

1563 (4) As used in this section, the term "electronic means"
1564 includes, but is not limited to, electronic data interchange;
1565 electronic funds transfer; and use of the Internet, telephone,
1566 or other technology specified by the Department of Economic
1567 Opportunity or its tax collection service provider.

1568 (5) The tax collection service provider may waive the
1569 penalty imposed by this section if a written request for waiver
1570 is filed that establishes that imposition of the penalty would
1571 be inequitable. Examples of inequity include, but are not
1572 limited to, situations in which the failure to electronically
1573 file was caused by:

1574 (a) Death or serious illness of the person responsible for
1575 preparing and filing the report;

1576 (b) Destruction of the business records by fire or other
 1577 casualty; or

1578 (c) Unscheduled and unavoidable computer down time.

1579 Section 40. Section 563.01, Florida Statutes, is amended
 1580 to read:

1581 563.01 Definitions ~~Definition.~~— The term: ~~terms~~

1582 (1) "Beer" means a brewed beverage that meets the federal
 1583 definition of beer in 27 C.F.R. s. 25.11 and contains less than
 1584 6 percent alcohol by volume. ~~and~~

1585 (2) "Malt beverage" means any ~~mean-all~~ brewed beverage
 1586 ~~beverages~~ containing malt.

1587
 1588 The terms "beer" and "malt beverage" have the same meaning when
 1589 either term is used in the Beverage Law. The terms do not
 1590 include alcoholic beverages that require a certificate of label
 1591 approval by the Federal Government as wine or as distilled
 1592 spirits.

1593 Section 41. Paragraph (c) of subsection (1) and subsection
 1594 (6) of section 624.5105, Florida Statutes, are amended to read:

1595 624.5105 Community contribution tax credit; authorization;
 1596 limitations; eligibility and application requirements;
 1597 administration; definitions; expiration.—

1598 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

1599 (c) The total amount of tax credit which may be granted
 1600 for all programs approved under this section and ss.

1601 212.08(5) (p) and 220.183 is ~~\$18.4 million in the 2015-2016~~
 1602 ~~fiscal year, \$21.4 million in the 2016-2017 fiscal year, and~~
 1603 ~~\$21.4 million~~ each fiscal year ~~in the 2017-2018 fiscal year~~ for
 1604 projects that provide housing opportunities for persons with
 1605 special needs as defined in s. 420.0004 or homeownership
 1606 opportunities for low-income or very-low-income households as
 1607 defined in s. 420.9071 and \$3.5 million each fiscal year
 1608 ~~annually~~ for all other projects.

1609 (6) EXPIRATION.—The provisions of this section, except
 1610 paragraph (1)(e), expire June 30, 2019 ~~2018~~.

1611 Section 42. Effective upon this act becoming a law,
 1612 subsection (3) of section 733.2121, Florida Statutes, is amended
 1613 to read:

1614 733.2121 Notice to creditors; filing of claims.—

1615 (3)(a) The personal representative shall promptly make a
 1616 diligent search to determine the names and addresses of
 1617 creditors of the decedent who are reasonably ascertainable, even
 1618 if the claims are unmatured, contingent, or unliquidated, and
 1619 shall promptly serve a copy of the notice on those creditors.
 1620 Impracticable and extended searches are not required. Service is
 1621 not required on any creditor who has filed a claim as provided
 1622 in this part, whose claim has been paid in full, or whose claim
 1623 is listed in a personal representative's timely filed proof of
 1624 claim.

1625 (b) The personal representative is not individually liable

1626 to any person for giving notice under this section, even if it
 1627 is later determined that notice was not required. The service of
 1628 notice to creditors in accordance with this section shall not be
 1629 construed as admitting the validity or enforceability of a
 1630 claim.

1631 (c) If the personal representative in good faith fails to
 1632 give notice required by this section, the personal
 1633 representative is not liable to any person for the failure.
 1634 Liability, if any, for the failure is on the estate.

1635 (d) If a decedent at the time of death was 55 years of age
 1636 or older, the personal representative shall promptly serve a
 1637 copy of the notice to creditors and provide a copy of the death
 1638 certificate on the Agency for Health Care Administration within
 1639 3 months after the first publication of the notice to creditors,
 1640 unless the agency has already filed a statement of claim in the
 1641 estate proceedings.

1642 (e) The personal representative shall only serve a notice
 1643 of creditors on the Department of Revenue if the department is
 1644 determined to be a creditor under paragraph (a) ~~If the~~
 1645 ~~Department of Revenue has not previously been served with a copy~~
 1646 ~~of the notice to creditors, then service of the inventory on the~~
 1647 ~~Department of Revenue shall be the equivalent of service of a~~
 1648 ~~copy of the notice to creditors.~~

1649 Section 43. Clothing, school supplies, personal computers,
 1650 and personal computer-related accessories; sales tax holiday.-

1651 (1) The tax levied under chapter 212, Florida Statutes,
 1652 may not be collected during the period from 12:01 a.m. on August
 1653 4, 2017, through 11:59 p.m. on August 13, 2017, on the retail
 1654 sale of:

1655 (a) Clothing, wallets, or bags, including handbags,
 1656 backpacks, fanny packs, and diaper bags, but excluding
 1657 briefcases, suitcases, and other garment bags, having a sales
 1658 price of \$100 or less per item. As used in this paragraph, the
 1659 term "clothing" means:

1660 1. Any article of wearing apparel intended to be worn on
 1661 or about the human body, excluding watches, watchbands, jewelry,
 1662 umbrellas, and handkerchiefs; and

1663 2. All footwear, excluding skis, swim fins, roller blades,
 1664 and skates.

1665 (b) School supplies having a sales price of \$15 or less
 1666 per item. As used in this paragraph, the term "school supplies"
 1667 means pens, pencils, erasers, crayons, notebooks, notebook
 1668 filler paper, legal pads, binders, lunch boxes, construction
 1669 paper, markers, folders, poster board, composition books, poster
 1670 paper, scissors, cellophane tape, glue or paste, rulers,
 1671 computer disks, protractors, compasses, and calculators.

1672 (2) The tax levied under chapter 212, Florida Statutes,
 1673 may not be collected during the period from 12:01 a.m. on August
 1674 4, 2017, through 11:59 p.m. on August 13, 2017, on the first
 1675 \$1,000 of the sales price of personal computers or personal

1676 computer-related accessories purchased for noncommercial home or
 1677 personal use. For purposes of this subsection, the term:

1678 (a) "Personal computers" includes electronic book readers,
 1679 laptops, desktops, handhelds, tablets, and tower computers. The
 1680 term does not include cellular telephones, video game consoles,
 1681 digital media receivers, or devices that are not primarily
 1682 designed to process data.

1683 (b) "Personal computer-related accessories" includes
 1684 keyboards, mice, personal digital assistants, monitors, other
 1685 peripheral devices, modems, routers, and nonrecreational
 1686 software, regardless of whether the accessories are used in
 1687 association with a personal computer base unit. The term does
 1688 not include furniture or systems, devices, software, or
 1689 peripherals that are designed or intended primarily for
 1690 recreational use.

1691 (c) "Monitors" does not include devices that include a
 1692 television tuner.

1693 (3) The tax exemptions provided in this section do not
 1694 apply to sales within a theme park or entertainment complex as
 1695 defined in s. 509.013(9), Florida Statutes, within a public
 1696 lodging establishment as defined in s. 509.013(4), Florida
 1697 Statutes, or within an airport as defined in s. 330.27(2),
 1698 Florida Statutes.

1699 (4) The tax exemptions provided in this section apply at
 1700 the option of a dealer if less than 5 percent of the dealer's

1701 gross sales of tangible personal property in the prior calendar
 1702 year are comprised of items that would be exempt under this
 1703 section. If a qualifying dealer chooses not to participate in
 1704 the tax holiday, the dealer must notify the Department of
 1705 Revenue in writing, by August 1, 2017, of its election to
 1706 collect sales tax during the holiday and must post a copy of
 1707 that notice in a conspicuous location at its place of business.

1708 (5) The Department of Revenue may, and all conditions are
 1709 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 1710 and 120.54(4), Florida Statutes, to administer this section.

1711 (6) For the 2017-2018 fiscal year, the sum of \$241,200 in
 1712 nonrecurring funds is appropriated from the General Revenue Fund
 1713 to the Department of Revenue for the purpose of implementing
 1714 this section.

1715 Section 44. Disaster preparedness supplies; sales tax
 1716 holiday.-

1717 (1) The tax levied under chapter 212, Florida Statutes,
 1718 may not be collected during the period from 12:01 a.m. on May
 1719 27, 2017, through 11:59 p.m. on June 4, 2017, on the retail sale
 1720 of:

1721 (a) A portable self-powered light source selling for \$20
 1722 or less.

1723 (b) A portable self-powered radio, two-way radio, or
 1724 weatherband radio selling for \$50 or less.

1725 (c) A tarpaulin or other flexible waterproof sheeting

- 1726 selling for \$50 or less.
- 1727 (d) A self-contained first-aid kit selling for \$30 or
- 1728 less.
- 1729 (e) A ground anchor system or tie-down kit selling for \$50
- 1730 or less.
- 1731 (f) A gas or diesel fuel tank selling for \$25 or less.
- 1732 (g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-
- 1733 volt batteries, excluding automobile and boat batteries, selling
- 1734 for \$30 or less.
- 1735 (h) A nonelectric food storage cooler selling for \$30 or
- 1736 less.
- 1737 (i) A portable generator used to provide light or
- 1738 communications or preserve food in the event of a power outage
- 1739 selling for \$750 or less.
- 1740 (j) Reusable ice selling for \$10 or less.
- 1741 (2) The Department of Revenue may, and all conditions are
- 1742 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
- 1743 and 120.54, Florida Statutes, to administer this section.
- 1744 (3) The tax exemptions provided in this section do not
- 1745 apply to sales within a theme park or entertainment complex as
- 1746 defined in s. 509.013(9), Florida Statutes, within a public
- 1747 lodging establishment as defined in s. 509.013(4), Florida
- 1748 Statutes, or within an airport as defined in s. 330.27(2),
- 1749 Florida Statutes.
- 1750 (4) For the 2016-17 fiscal year, the sum of \$290,580 in

1751 nonrecurring funds is appropriated from the General Revenue Fund
 1752 to the Department of Revenue for the purpose of implementing
 1753 this section.

1754 (5) This section is effective upon this act becoming a
 1755 law.

1756 Section 45. Educational textbooks and instructional
 1757 materials; sales tax exemption.-

1758 (1) The tax levied under chapter 212, Florida Statutes,
 1759 may not be collected on the retail sale of textbooks that are
 1760 required or recommended for use in a course offered by a public
 1761 postsecondary educational institution as described in s.
 1762 1000.04, Florida Statutes, or a nonpublic postsecondary
 1763 educational institution that is eligible to participate in a
 1764 tuition assistance program authorized by s. 1009.89, Florida
 1765 Statutes, or s. 1009.891, Florida Statutes. As used in this
 1766 section, the term "textbook" means any required or recommended
 1767 manual of instruction or any instructional materials for a
 1768 course in any field of study. As used in this section, the term
 1769 "instructional materials" means any educational materials, in
 1770 printed or digital format, that are required or recommended for
 1771 use in a course in any field of study. To demonstrate that a
 1772 sale is not subject to tax, the student must provide a physical
 1773 or an electronic copy of the following to the vendor:

- 1774 (a) His or her student identification number; and
- 1775 (b) An applicable course syllabus or list of required and

1776 recommended textbooks and instructional materials that meet the
 1777 criteria in s. 1004.085(3), Florida Statutes.

1778
 1779 The vendor must maintain proper documentation, as prescribed by
 1780 department rule, to identify the complete transaction or portion
 1781 of the transaction that involves the sale of textbooks that are
 1782 not subject to tax.

1783 (2) The tax exemptions provided in this section do not
 1784 apply to sales within a theme park or entertainment complex as
 1785 defined in s. 509.013(9), Florida Statutes, within a public
 1786 lodging establishment as defined in s. 509.013(4), Florida
 1787 Statutes, or within an airport as defined in s. 330.27(2),
 1788 Florida Statutes.

1789 (3) (a) The Department of Revenue may, and all conditions
 1790 are deemed met to, adopt emergency rules pursuant to ss.
 1791 120.536(1) and 120.54, Florida Statutes, to administer this
 1792 section.

1793 (b) Notwithstanding any other provision of law, emergency
 1794 rules adopted pursuant to paragraph (a) are effective for 6
 1795 months after adoption and may be renewed during the pendency of
 1796 procedures to adopt permanent rules addressing the subject of
 1797 the emergency rules.

1798 (4) This section is repealed June 30, 2018.

1799 Section 46. (1) The Department of Revenue may, and all
 1800 conditions are deemed met to, adopt emergency rules pursuant to

1801 ss. 120.536(1) and 120.54, Florida Statutes, for the purpose of
 1802 implementing the amendments made by this act to s. 212.08(19),
 1803 Florida Statutes.

1804 (2) Notwithstanding any other provision of law, emergency
 1805 rules adopted pursuant to subsection (1) are effective for 6
 1806 months after adoption and may be renewed during the pendency of
 1807 procedures to adopt permanent rules addressing the subject of
 1808 the emergency rules.

1809 (3) This section is repealed January 1, 2019.

1810 Section 47. Section 206.998, Florida Statutes, is amended
 1811 to read:

1812 206.998 Applicability of specified sections of parts I and
 1813 II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,
 1814 206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,
 1815 206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
 1816 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
 1817 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,
 1818 206.27, 206.28, ~~206.405, 206.406,~~ 206.41, 206.413, 206.43,
 1819 206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,
 1820 206.608, and 206.61 of part I of this chapter and ss. 206.86,
 1821 206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part
 1822 II of this chapter shall, as far as lawful or practicable, be
 1823 applicable to the tax levied and imposed and to the collection
 1824 thereof as if fully set out in this part. However, any provision
 1825 of any such section does not apply if it conflicts with any

1826 provision of this part.

1827 Section 48. For the 2017-2018 fiscal year, the sums of
 1828 \$121,398 in recurring funds and \$11,730 in nonrecurring funds
 1829 are appropriated from the Operating Trust Fund to the Department
 1830 of Revenue to implement the amendments made by this act to s.
 1831 212.08(19), Florida Statutes.

1832 Section 49. The amendments made by this act to s.
 1833 212.08(5)(a), Florida Statutes, that exempt certain animal
 1834 health products and aquaculture health products, are intended to
 1835 be remedial in nature and apply retroactively, but do not
 1836 provide a basis for an assessment of any tax or create a right
 1837 to a refund or credit of any tax paid before the effective date
 1838 of this act.

1839 Section 50. The amendments made by this act to s. 220.222,
 1840 Florida Statutes, apply to taxable years beginning on or after
 1841 January 1, 2016.

1842 Section 51. For the 2017-2018 fiscal year, the sum of
 1843 \$149,818 in nonrecurring funds is appropriated from the General
 1844 Revenue Fund to the Department of Revenue to implement the
 1845 amendments made by this act to ss. 212.08(7) and 212.031,
 1846 Florida Statutes.

1847 Section 52. Except as otherwise expressly provided in this
 1848 act and except for this section, which shall take effect upon
 1849 this act becoming a law, this act shall take effect July 1,
 1850 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-07 Homestead Exemption Implementation
SPONSOR(S): Ways & Means Committee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dobson <i>MO</i>	Langston <i>[Signature]</i>

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards and some special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

This bill implements the amendment to Article VII, Section 6(a) of the state constitution, as proposed in PCB WMC 17-04, which increases the exemption from all taxes other than school district taxes by up to \$25,000, by exempting assessed value greater than \$75,000 and up to \$100,000.

The bill changes statutory dollar thresholds for the homestead exemption in order to conform with those in the constitutional amendment. Additionally, the bill provides that the rolled back rate used by local governments in FY 2019-2018 must be calculated as if the tax base not had been reduced by the increased homestead exemption. This provision also applies to the calculation of higher millage rates that may be levied with either a 2/3 or unanimous vote by a local governing board.

This bill also directs the legislature to appropriate funds to offset ad valorem tax revenue losses in fiscally constrained counties, as defined in s. 218.67(1), F.S., attributable to the reduction in property tax base caused by the increased homestead exemption. There are presently 29 fiscally constrained counties within the state.

The bill takes effect on the same day that the constitutional amendment in PCB WMC 17-04 or similar legislation takes effect, which is January 1, 2019.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Calculating Ad valorem Taxes

Current Situation:

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the “just” or fair market value of real and tangible property as determined by county property appraisers on January 1 of each year.² Fair market value is then adjusted by any applicable exceptions to the just value requirement such as the annual “save our homes” limitation on homestead property assessment increases.³ The value arrived at after accounting for just value exceptions is known as the assessed value. Property Appraisers then calculate taxable value by reducing the assessed value in accordance with any applicable exemption(s), such as the exemptions for homestead property.⁴ Each year, local governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

The homestead exemption is specified in Article VII, Section 6 of the Florida Constitution, which provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves or a legal or natural dependent is entitled to exemption from taxes on the first \$25,000 in assessed value.⁵ In 2008, Florida voters amended this provision to include an additional \$25,000 exemption from all taxes other than school district taxes on assessed value greater than \$50,000.⁶ The constitution also vests the legislature with authority to enact general law establishing the manner in which individuals qualify for exemption. Accordingly, s. 196.031(1)(b), F.S. automatically grants the additional, non-school homestead exemption to every individual who qualifies for the initial homestead exemption on the first \$25,000 in assessed value.

Effect of Proposed Changes

This bill implements the proposed constitutional amendment in PCB WMC 17-04 by increasing the homestead exemption amount from \$25,000 to \$50,000 on the assessed value greater than \$50,000 for all taxes other than school district taxes.

Calculating Millage Rates

Current Situation

The “rolled back rate” is the millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year’s total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.^{7, 8}

¹ Fla. Const. art. VII, s. 1(a).

² See Fla. Const. art. VII, s. 4.

³ See s. 193.155(3), F.S.

⁴ See generally, s. 196.031, F.S.

⁵ Fla. Const. art. VII s. 6.

⁶ *Id.*

⁷ Note: pursuant to section. 200.001(h), F.S., “dedicated increment value” means the proportion of the cumulative increase in taxable value within a defined geographic area used to determine a tax increment amount to be paid to a redevelopment trust fund pursuant to

Florida law utilizes the rolled back rate as a benchmark for determining whether a proposed millage rate is considered a tax increase. Local governing boards who chose to set their annual millage rate higher than the roll back rate must advertise the new rate as a tax increase.⁹

Section 200.065, F.S. provides criteria for determining the maximum millage rates that may be levied by a county, municipality, special district or municipal service taxing unit. The maximum rate that may be levied by simple majority vote is the rolled back rate that would have been attained had the board levied the highest millage rate allowed in the prior year, adjusted for change in per capita Florida personal income. Local governing boards may exceed this amount by up to 10% with consent from two-thirds of board members, or an amount greater than 10% with consent from all board members. Boards who wish to exceed the rolled-back rate by any amount must provide notice and comment to affected taxpayers before taking a vote on the issue.¹⁰

Effect of Proposed Changes

The bill provides that taxable values used in the calculation of rolled-back rates for purposes of the 2019 tax roll shall be increased by an amount equal to the reduction in taxable value that will occur if the amendment is adopted. Consequently, rolled back rates used by local governments in their FY 2019-20 tax rate determinations will not automatically increase in response to the tax base reductions associated with the higher homestead exemption.

Fiscally Constrained Counties

Current Situation

Fiscally Constrained Counties are counties entirely within a Rural Opportunity Area or where a 1 mill levy would raise no more than \$5 million in annual tax revenue.¹¹ A rural opportunity area is a rural community¹² or region, that has been adversely affected by extraordinary economic event, severe distress, natural disaster or that presents a unique economic development opportunity of regional impact, as designated by the Governor.¹³ Florida's fiscally constrained counties are: Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla and Washington.¹⁴ Under current law, the legislature annually appropriates money to these counties to offset ad valorem tax revenue reductions caused by various amendments in the Florida Constitution.¹⁵ In order to receive an offset distribution, fiscally constrained counties must annually provide the Department of Revenue with an estimate of the expected reduction in ad valorem tax revenues that are directly attributable to specified revisions of Article VII of the state

s. 163.387(2)(a) or to be paid or applied pursuant to an ordinance, resolution, or agreement to fund a project or to finance essential infrastructure. Upon creating any obligation for payment to a redevelopment trust fund or otherwise pursuant to an ordinance, resolution, or agreement to fund a project or to finance essential infrastructure based on an increase in assessed value, the taxing authority shall certify to the property appraiser the boundaries of the designated geographic area and the date of the most recent assessment roll used in connection with the taxation of such property prior to creation of the obligation. If the increment amount payment is not based on a specific proportion of the cumulative increase in taxable value within a defined geographic area, such value shall be reduced by multiplying by a proportion calculated by dividing the payment in the prior year, if any, by the product of the millage rate in the prior year and the cumulative increase in taxable value within the defined geographic area in the prior year. For tax years beginning on or after January 1, 2008, information provided to the property appraiser after May 1 of any year may not be used for the current year's certification.

⁸ Section 200.065(1), F.S.

⁹ Section 200.065(3)(g), F.S.

¹⁰ See s. 200.065,(2)-(3), F.S.

¹¹ Section 218.67(1), F.S.

¹² A "rural community" as the term relates to counties means a county with a population of 75,000 or fewer, or a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer. See s. 288.0656(1)(e), F.S.

¹³ Section 288.0656(1)(d), F.S.

¹⁴ Florida Department of Revenue, List of Fiscally Constrained Counties, <http://floridarevenue.com/dor/property/cofficials/fiscalc/pdf/fcco081210.pdf> (last visited 03/30/2017).

¹⁵ See generally s. 218.125, F.S.

constitution.¹⁶ This legislation is designed to prevent various constitutional amendments related to property tax from negatively impacting fiscally constrained county tax revenues.

Effect of Proposed Changes

Beginning in Fiscal Year 2019-2020, the bill directs the legislature to annually appropriate funds to fiscally constrained counties for the purpose of offsetting the decrease in ad valorem tax revenues they would otherwise experience as a result of the amendment to Article VII, Section 6(b). The method for applying and calculating distributions is the same as that used in section 218.125, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.031, F.S. increasing the homestead exemption from non-school taxes.

Section 2: Amends s. 200.065, F.S. specifying the calculation of the rolled-back rate for purposes of the 2019 tax roll.

Section 3: Amends s. 218.125, F.S. requiring the legislature to appropriate moneys to offset reductions in tax revenue in fiscally constrained counties resulting from increased exemptions.

Section 4: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

If the bill becomes effective and the legislature makes appropriations as directed by the bill, staff estimates that state expenditures sufficient to fully offset the impacts to fiscally constrained counties of the higher homestead exemption will be approximately \$15 million annually.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

¹⁶ Section 218.125(2), F.S.
STORAGE NAME: pcb07.WMC
DATE: 4/3/2017

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, subsection 18(b), of the Florida Constitution may apply because this bill will reduce certain statutory maximum millage rates, above which a local government may not levy property tax except by extraordinary votes of the governing board. It is unclear whether this constitutes a reduction of revenue raising authority as contemplated by subsection 18(b). If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to homestead exemption implementation;
 3 amending s. 196.031, F.S.; increasing the homestead
 4 exemption from all taxes other than school district
 5 taxes; amending s. 200.065, F.S.; specifying
 6 calculation of the rolled-back rate for purposes of
 7 the 2019 tax roll; providing a repeal date; amending
 8 s. 218.125, F.S.; requiring the Legislature to
 9 appropriate moneys to offset reductions in tax
 10 revenues in certain fiscally constrained counties
 11 resulting from increased exemptions; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Paragraph (b) of subsection (1) of section
 17 196.031, Florida Statutes, is amended to read:

18 196.031 Exemption of homesteads.—

19 (1)

20 (b) Every person who qualifies to receive the exemption
 21 provided in paragraph (a) is entitled to an additional exemption
 22 of up to \$50,000 ~~\$25,000~~ on the assessed valuation greater than
 23 \$50,000 for all levies other than school district levies.

24 Section 2. Subsection (15) of section 200.065, Florida
 25 Statutes, is renumbered as subsection (16), and a new subsection

26 (15) is added to that section to read:

27 200.065 Method of fixing millage.-

28 (15)(a) Notwithstanding the method of computing the
 29 rolled-back rate in subsection (1), the taxable value that is
 30 used in computing the rolled-back rate in subsection (1) and the
 31 maximum millage rate under subsection (5), shall be increased by
 32 an amount equal to the reduction in taxable value occurring as a
 33 result of the revision to s. 6(a) of Art. VII of the State
 34 Constitution approved in November 2018 which authorizes an
 35 additional exemption of up to \$25,000 for all levies other than
 36 school district levies. For purposes of this paragraph, the
 37 taxable value shall be based on value as of January 1, 2019,
 38 within each taxing authority.

39 (b) This subsection is repealed on December 31, 2019.

40 Section 3. Section 218.125, Florida Statutes, is amended
 41 to read:

42 218.125 Offset for tax loss associated with certain
 43 constitutional amendments affecting fiscally constrained
 44 counties.-

45 (1)(a) Beginning in the 2010-2011 fiscal year, the
 46 Legislature shall appropriate moneys to offset the reductions in
 47 ad valorem tax revenue experienced by fiscally constrained
 48 counties, as defined in s. 218.67(1), which occur as a direct
 49 result of the implementation of revisions of ss. 3(f) and 4(b)
 50 of Art. VII of the State Constitution which were approved in the

51 general election held in November 2008. The moneys appropriated
 52 for this purpose shall be distributed in January of each fiscal
 53 year among the fiscally constrained counties based on each
 54 county's proportion of the total reduction in ad valorem tax
 55 revenue resulting from the implementation of the revisions.

56 (b) Beginning in the 2019-2020 fiscal year, the
 57 Legislature shall appropriate moneys to offset reductions in ad
 58 valorem tax revenue experienced by fiscally constrained
 59 counties, as defined in s. 218.67(1), which occur as a direct
 60 result of implementation of the revision to s. 6(a) of Art. VII
 61 of the State Constitution approved in November 2018 which
 62 authorizes an additional exemption of up to \$25,000 for all
 63 levies other than school district levies. The moneys
 64 appropriated for this purpose shall be distributed in January of
 65 each fiscal year among the fiscally constrained counties based
 66 on each county's proportion of the total reduction in ad valorem
 67 tax revenue resulting from the implementation of the revisions.

68 (2) On or before November 15 of each year, each fiscally
 69 constrained county shall apply to the Department of Revenue to
 70 participate in the distribution of the appropriation and provide
 71 documentation supporting the county's estimated reduction in ad
 72 valorem tax revenue in the form and manner prescribed by the
 73 department ~~of Revenue~~. The documentation must include an
 74 estimate of the reduction in taxable value directly attributable
 75 to revisions of Art. VII of the State Constitution for all

76 county taxing jurisdictions within the county and shall be
 77 prepared by the property appraiser in each fiscally constrained
 78 county. The documentation must also include the county millage
 79 rates applicable in all such jurisdictions for the current year
 80 and the prior year, rolled-back rates determined as provided in
 81 s. 200.065 for each county taxing jurisdiction, and maximum
 82 millage rates that could have been levied by majority vote
 83 pursuant to s. 200.065(5).

84 (a) For purposes of paragraph (1)(a) ~~this section~~, each
 85 fiscally constrained county's reduction in ad valorem tax
 86 revenue shall be calculated as 95 percent of the estimated
 87 reduction in taxable value multiplied by the lesser of the 2010
 88 applicable millage rate or the applicable millage rate for each
 89 county taxing jurisdiction in the current year. If a fiscally
 90 constrained county fails to apply for the distribution, its
 91 share shall revert to the fund from which the appropriation was
 92 made.

93 (b) For purposes of paragraph (1)(b), each fiscally
 94 constrained county's reduction in ad valorem tax revenue shall
 95 be calculated as 95 percent of the estimated reduction in
 96 taxable value multiplied by the lesser of the 2017 applicable
 97 millage rate or the applicable millage rate for each county
 98 taxing jurisdiction in the current year. If a fiscally
 99 constrained county fails to apply for the distribution, its
 100 share shall revert to the fund from which the appropriation was

101 | made.
102 | Section 4. This act shall take effect on the effective
103 | date of the amendment to the State Constitution proposed by HJR
104 | _____ or a similar joint resolution having substantially the
105 | same specific intent and purpose, if such amendment to the State
106 | Constitution is approved at the general election held in
107 | November 2018 and shall apply to the 2019 tax roll.