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1  
 2 An act relating to transportation; amending s. 206.46,  
 3 F.S.; limiting the amount of certain revenues in the  
 4 State Transportation Trust Fund which the Department  
 5 of Transportation may annually commit to public  
 6 transit projects; providing exceptions; amending s.  
 7 288.9606, F.S.; conforming provisions to changes made  
 8 by the act; amending s. 318.14, F.S.; increasing the  
 9 number of times a driver may elect to attend a basic  
 10 driver improvement course approved by the Department  
 11 of Highway Safety and Motor Vehicles in lieu of a  
 12 court appearance; amending ss. 318.1451 and 322.095,  
 13 F.S.; requiring the department to annually review  
 14 changes made to certain laws and to require course  
 15 content for specified driving courses to be modified  
 16 in accordance with relevant changes; amending s.  
 17 334.30, F.S.; authorizing the Department of  
 18 Transportation to enter into comprehensive agreements  
 19 with private entities for certain purposes; revising  
 20 provisions relating to a traffic and revenue study  
 21 provided by a private entity; revising the time period  
 22 during which the department will accept additional  
 23 proposals after receiving an unsolicited proposal,  
 24 based on project complexity; authorizing the  
 25 department to enter into an interim agreement with a

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26 private entity before or in connection with  
 27 negotiating a comprehensive agreement; providing  
 28 requirements; authorizing the department secretary to  
 29 authorize an agreement term of up to 75 years for  
 30 certain projects; requiring the department to notify  
 31 the Division of Bond Finance before entering into an  
 32 interim or comprehensive agreement; amending s.  
 33 336.044, F.S.; prohibiting a local governmental entity  
 34 from deeming reclaimed asphalt pavement material as  
 35 solid waste; amending s. 337.11, F.S.; requiring the  
 36 department to receive at least three letters of  
 37 interest in order to proceed with a request for  
 38 proposals for design-build contracts and phased  
 39 design-build contracts; requiring a motor vehicle used  
 40 for specified work on a department project to be  
 41 registered in compliance with certain provisions;  
 42 amending s. 337.18, F.S.; authorizing the department  
 43 to allow the issuance of certain contract performance  
 44 and payment bonds for phased design-build contracts;  
 45 authorizing the department to determine whether to  
 46 reduce bonding requirements; revising the time periods  
 47 within which certain actions must be instituted by a  
 48 claimant; amending s. 337.195, F.S.; providing  
 49 definitions; providing a presumption that if a death,  
 50 injury, or damage results from a motor vehicle crash

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51 within a construction zone in which the driver of a  
52 vehicle was under the influence of certain marijuana,  
53 the driver's operation of such vehicle was the  
54 proximate cause of his or her own death, injury, or  
55 damage; revising conditions under which a contractor  
56 is immune from liability; conforming provisions to  
57 changes made by the act; revising provisions relating  
58 to a prohibition against naming the department or  
59 certain entities on a jury verdict form if determined  
60 to be immune from liability for injury, death, or  
61 damage; amending s. 337.25, F.S.; requiring the  
62 department to issue a right of first refusal to the  
63 previous owner of certain property acquired by the  
64 department if such previous owner provides written  
65 notice to the department, within a specified  
66 timeframe, of his or her interest in reacquiring such  
67 property; requiring the department to acknowledge  
68 receipt of such notice in writing within a specified  
69 timeframe; amending s. 338.26, F.S.; providing that a  
70 certain interlocal agreement for the fire station on  
71 the Alligator Alley toll road controls until the local  
72 governmental entity and the department extend the  
73 agreement or enter into a new agreement; limiting the  
74 amount of reimbursement; requiring the local  
75 governmental entity to provide a specified periodic

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76 comprehensive plan to the department; requiring the  
 77 local governmental entity and the department to adopt  
 78 such plan as part of the interlocal agreement;  
 79 requiring certain funding needs to be included in the  
 80 department's work program and in the local  
 81 governmental entity's capital comprehensive plan and  
 82 budget; requiring ownership and title of certain  
 83 equipment purchased with state funds to transfer to  
 84 the state at the end of the term of the interlocal  
 85 agreement; creating s. 339.28201, F.S.; creating a  
 86 Local Agency Program within the department for certain  
 87 funding purposes; requiring oversight by the  
 88 department; providing requirements for the  
 89 department's project cost estimate; providing for  
 90 prioritization and budget of certain local projects;  
 91 providing funding eligibility requirements; providing  
 92 contract requirements; amending ss. 339.2825 and  
 93 627.06501, F.S.; conforming provisions to changes made  
 94 by the act; providing an effective date.

95  
 96 Be It Enacted by the Legislature of the State of Florida:

97  
 98 Section 1. Subsection (6) is added to section 206.46,  
 99 Florida Statutes, to read:

100 206.46 State Transportation Trust Fund.—

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101       (6) The department may not annually commit more than 20  
 102 percent of the revenues derived from state fuel taxes and motor  
 103 vehicle license-related fees deposited into the State  
 104 Transportation Trust Fund to public transit projects, in  
 105 accordance with chapter 341, except as otherwise provided  
 106 herein. Notwithstanding the foregoing, the department may  
 107 annually commit more than 20 percent of such revenues for any of  
 108 the following:

109       (a) A public transit project that uses revenues derived  
 110 from state fuel taxes and motor vehicle license-related fees to  
 111 match funds made available by the Federal Government.

112       (b) A public transit project included in the  
 113 transportation improvement program adopted pursuant to s.  
 114 339.175(8) and approved by a supermajority vote of the board of  
 115 county commissioners or the governing board of a consolidated  
 116 county and city government where the project is located.

117       (c) A bus rapid transit or rail project that would result  
 118 in maintaining or enhancing the level of service of the state  
 119 highway system along the corridor of the project, provided state  
 120 funds do not exceed 50 percent of the nonfederal share of the  
 121 costs and the percentage of the local share.

122       Section 2. Subsections (6) and (7) of section 288.9606,  
 123 Florida Statutes, are amended to read:

124       288.9606 Issue of revenue bonds.—

125       (6) The proceeds of any bonds of the corporation may not

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126 | be used, in any manner, to acquire any building or facility that  
 127 | will be, during the pendency of the financing, used by, occupied  
 128 | by, leased to, or paid for by any state, county, or municipal  
 129 | agency or entity. This subsection does not prohibit the use of  
 130 | proceeds of bonds of the corporation for the purpose of  
 131 | financing the acquisition or construction of a transportation  
 132 | facility under a comprehensive ~~public-private partnership~~  
 133 | agreement authorized by s. 334.30.

134 | (7) Notwithstanding any provision of this section, the  
 135 | corporation in its corporate capacity may, without authorization  
 136 | from a public agency under s. 163.01(7), issue revenue bonds or  
 137 | other evidence of indebtedness under this section to:

138 | (a) Finance the undertaking of any project within the  
 139 | state that promotes renewable energy as defined in s. 366.91 or  
 140 | s. 377.803;

141 | (b) Finance the undertaking of any project within the  
 142 | state that is a project contemplated or allowed under s. 406 of  
 143 | the American Recovery and Reinvestment Act of 2009; ~~or~~

144 | (c) If permitted by federal law, finance qualifying  
 145 | improvement projects within the state under s. 163.08; or~~-~~

146 | (d) Finance the costs of acquisition or construction of a  
 147 | transportation facility by a private entity or consortium of  
 148 | private entities under a comprehensive ~~public-private~~  
 149 | ~~partnership~~ agreement authorized by s. 334.30.

150 | Section 3. Subsection (9) of section 318.14, Florida

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151 Statutes, is amended to read:

152 318.14 Noncriminal traffic infractions; exception;  
 153 procedures.—

154 (9) Any person who does not hold a commercial driver  
 155 license or commercial learner's permit and who is cited while  
 156 driving a noncommercial motor vehicle for an infraction under  
 157 this section other than a violation of s. 316.183(2), s.  
 158 316.187, or s. 316.189 when the driver exceeds the posted limit  
 159 by 30 miles per hour or more, s. 320.0605, s. 320.07(3) (a) or  
 160 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in  
 161 lieu of a court appearance, elect to attend in the location of  
 162 his or her choice within this state a basic driver improvement  
 163 course approved by the Department of Highway Safety and Motor  
 164 Vehicles. In such a case, adjudication must be withheld, any  
 165 civil penalty that is imposed by s. 318.18(3) must be reduced by  
 166 18 percent, and points, as provided by s. 322.27, may not be  
 167 assessed. However, a person may not make an election under this  
 168 subsection if the person has made an election under this  
 169 subsection in the preceding 12 months. A person may not make  
 170 more than eight ~~five~~ elections within his or her lifetime under  
 171 this subsection. The requirement for community service under s.  
 172 318.18(8) is not waived by a plea of nolo contendere or by the  
 173 withholding of adjudication of guilt by a court.

174 Section 4. Paragraph (d) of subsection (6) of section  
 175 318.1451, Florida Statutes, is amended to read:

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176 318.1451 Driver improvement schools.—

177 (6) The department shall adopt rules establishing and  
 178 maintaining policies and procedures to implement the  
 179 requirements of this section. These policies and procedures may  
 180 include, but shall not be limited to, the following:

181 (d) Course content.—The department shall set and modify  
 182 course content requirements to keep current with laws and safety  
 183 information. The department shall annually review changes made  
 184 to major traffic laws of this state, including s. 316.126(1) (b),  
 185 and shall require course content for courses referenced in this  
 186 section to be modified in accordance with changes relevant to  
 187 the courses. Course content includes all items used in the  
 188 conduct of the course.

189 Section 5. Subsection (7) of section 322.095, Florida  
 190 Statutes, is amended to read:

191 322.095 Traffic law and substance abuse education program  
 192 for driver license applicants.—

193 (7) Courses approved under this section must be updated at  
 194 the department's request. The department shall annually review  
 195 changes made to major traffic laws of this state, including s.  
 196 316.126(1) (b), and shall require course content for courses  
 197 referenced in this section to be modified in accordance with  
 198 changes relevant to the courses. Failure of a course provider to  
 199 update the course within 90 days after the department's request  
 200 shall result in the suspension of the course approval until such



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201 | time that the updates are submitted and approved by the  
 202 | department.

203 |       Section 6. Subsections (8) through (13) of section 334.30,  
 204 | Florida Statutes, are renumbered as subsections (9) through  
 205 | (14), respectively, subsections (1), (2), and (6) and present  
 206 | subsections (8), (10), (11), and (13) are amended, and a new  
 207 | subsection (8) is added to that section, to read:

208 |       334.30 Public-private transportation facilities.—The  
 209 | Legislature finds and declares that there is a public need for  
 210 | the rapid construction of safe and efficient transportation  
 211 | facilities for the purpose of traveling within the state, and  
 212 | that it is in the public's interest to provide for the  
 213 | construction of additional safe, convenient, and economical  
 214 | transportation facilities.

215 |       (1) The department may receive or solicit proposals and,  
 216 | with legislative approval as evidenced by approval of the  
 217 | project in the department's work program, enter into  
 218 | comprehensive agreements with private entities, or consortia  
 219 | thereof, for the building, operation, ownership, or financing of  
 220 | transportation facilities. The department may advance projects  
 221 | programmed in the adopted 5-year work program or projects  
 222 | increasing transportation capacity and greater than \$500 million  
 223 | in the 10-year Strategic Intermodal Plan using funds provided by  
 224 | public-private partnerships or private entities to be reimbursed  
 225 | from department funds for the project as programmed in the

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226 adopted work program. The department shall by rule establish an  
 227 application fee for the submission of unsolicited proposals  
 228 under this section. The fee must be sufficient to pay the costs  
 229 of evaluating the proposals. The department may engage the  
 230 services of private consultants to assist in the evaluation.  
 231 Before approval, the department must determine that the proposed  
 232 project:

- 233 (a) Is in the public's best interest;
- 234 (b) Would not require state funds to be used unless the  
 235 project is on the State Highway System;
- 236 (c) Would have adequate safeguards in place to ensure that  
 237 no additional costs or service disruptions would be realized by  
 238 the traveling public and residents of the state in the event of  
 239 default or cancellation of the comprehensive agreement by the  
 240 department;
- 241 (d) Would have adequate safeguards in place to ensure that  
 242 the department or the private entity has the opportunity to add  
 243 capacity to the proposed project and other transportation  
 244 facilities serving similar origins and destinations; and
- 245 (e) Would be owned by the department upon completion or  
 246 termination of the comprehensive agreement.

247  
 248 The department shall ensure that all reasonable costs to the  
 249 state, related to transportation facilities that are not part of  
 250 the State Highway System, are borne by the private entity. The

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251 department shall also ensure that all reasonable costs to the  
 252 state and substantially affected local governments and  
 253 utilities, related to the private transportation facility, are  
 254 borne by the private entity for transportation facilities that  
 255 are owned by private entities. For projects on the State Highway  
 256 System, the department may use state resources to participate in  
 257 funding and financing the project as provided for under the  
 258 department's enabling legislation. Because the Legislature  
 259 recognizes that private entities or consortia thereof would  
 260 perform a governmental or public purpose or function when they  
 261 enter into comprehensive agreements with the department to  
 262 design, build, operate, own, or finance transportation  
 263 facilities, the transportation facilities, including leasehold  
 264 interests thereof, are exempt from ad valorem taxes as provided  
 265 in chapter 196 to the extent property is owned by the state or  
 266 other government entity, and from intangible taxes as provided  
 267 in chapter 199 and special assessments of the state, any city,  
 268 town, county, special district, political subdivision of the  
 269 state, or any other governmental entity. The private entities or  
 270 consortia thereof are exempt from tax imposed by chapter 201 on  
 271 all documents or obligations to pay money which arise out of the  
 272 comprehensive agreements to design, build, operate, own, lease,  
 273 or finance transportation facilities. Any private entities or  
 274 consortia thereof must pay any applicable corporate taxes as  
 275 provided in chapter 220, and reemployment assistance taxes as

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276 provided in chapter 443, and sales and use tax as provided in  
 277 chapter 212 shall be applicable. The private entities or  
 278 consortia thereof must also register and collect the tax imposed  
 279 by chapter 212 on all their direct sales and leases that are  
 280 subject to tax under chapter 212. The comprehensive agreement  
 281 between the private entity or consortia thereof and the  
 282 department establishing a transportation facility under this  
 283 chapter constitutes documentation sufficient to claim any  
 284 exemption under this section.

285 (2) Comprehensive agreements entered into pursuant to this  
 286 section may authorize the private entity to impose tolls or  
 287 fares for the use of the facility. The following provisions  
 288 shall apply to such comprehensive agreements:

289 (a) With the exception of the Florida Turnpike System, the  
 290 department may lease existing toll facilities through public-  
 291 private partnerships. The comprehensive ~~public-private~~  
 292 ~~partnership~~ agreement must ensure that the transportation  
 293 facility is properly operated, maintained, and renewed in  
 294 accordance with department standards.

295 (b) The department may develop new toll facilities or  
 296 increase capacity on existing toll facilities through public-  
 297 private partnerships. The comprehensive ~~public-private~~  
 298 ~~partnership~~ agreement must ensure that the toll facility is  
 299 properly operated, maintained, and renewed in accordance with  
 300 department standards.

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301 (c) Any toll revenues shall be regulated by the department  
 302 pursuant to s. 338.165(3). The regulations governing the future  
 303 increase of toll or fare revenues shall be included in the  
 304 comprehensive ~~public-private partnership~~ agreement.

305 (d) The department shall provide the analysis required in  
 306 subparagraph (6)(e)2. to the Legislative Budget Commission  
 307 created pursuant to s. 11.90 for review and approval before  
 308 ~~prior to~~ awarding a contract on a lease of an existing toll  
 309 facility.

310 (e) The department shall include provisions in the  
 311 comprehensive ~~public-private partnership~~ agreement that ensure a  
 312 negotiated portion of revenues from tolled or fare generating  
 313 projects is ~~are~~ returned to the department over the life of the  
 314 comprehensive ~~public-private partnership~~ agreement. In the case  
 315 of a lease of an existing toll facility, the department shall  
 316 receive a portion of funds upon closing on the comprehensive  
 317 agreements and shall also include provisions in the  
 318 comprehensive agreement to receive payment of a portion of  
 319 excess revenues over the life of the public-private partnership.

320 (f) The private entity shall provide an independent  
 321 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~  
 322 ~~internationally recognized~~ traffic and revenue expert as part of  
 323 the private entity proposal. The private entity shall provide a  
 324 traffic and revenue study that is accepted by the national bond  
 325 rating agencies for the financing that supports the

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326 comprehensive agreement at financial close for the public-  
327 private partnership project. The private entity shall also  
328 provide a finance plan that identifies the project cost,  
329 revenues by source, financing, major assumptions, internal rate  
330 of return on private investments, and whether any government  
331 funds are assumed to deliver a cost-feasible project, and a  
332 total cash flow analysis beginning with implementation of the  
333 project and extending for the term of the comprehensive  
334 agreement.

335 (6) The procurement of public-private partnerships by the  
336 department shall follow the provisions of this section. Sections  
337 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,  
338 337.185, 337.19, 337.221, and 337.251 shall not apply to  
339 procurements under this section unless a provision is included  
340 in the procurement documents. The department shall ensure that  
341 generally accepted business practices for exemptions provided by  
342 this subsection are part of the procurement process or are  
343 included in the comprehensive ~~public-private partnership~~  
344 agreement.

345 (a) The department may request proposals from private  
346 entities for public-private transportation projects or, if the  
347 department receives an unsolicited proposal, the department  
348 shall publish a notice in the Florida Administrative Register  
349 and a newspaper of general circulation at least once a week for  
350 2 weeks stating that the department has received the proposal

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351 and will accept, between 30 and ~~for~~ 120 days after the initial  
 352 date of publication as determined by the department based on the  
 353 complexity of the project, other proposals for the same project  
 354 purpose. A copy of the notice must be mailed to each local  
 355 government in the affected area.

356 (b) Public-private partnerships shall be qualified by the  
 357 department as part of the procurement process as outlined in the  
 358 procurement documents, provided such process ensures that the  
 359 private firm meets at least the minimum department standards for  
 360 qualification in department rule for professional engineering  
 361 services and road and bridge contracting before ~~prior to~~  
 362 submitting a proposal under the procurement.

363 (c) The department shall ensure that procurement documents  
 364 include provisions for performance of the private entity and  
 365 payment of subcontractors, including, but not limited to, surety  
 366 bonds, letters of credit, parent company guarantees, and lender  
 367 and equity partner guarantees. The department shall balance the  
 368 structure of the security package for the public-private  
 369 partnership that ensures performance and payment of  
 370 subcontractors with the cost of the security to ensure the most  
 371 efficient pricing.

372 (d) After the public notification period has expired, the  
 373 department shall rank the proposals in order of preference. In  
 374 ranking the proposals, the department may consider factors that  
 375 include, but are not limited to, professional qualifications,

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376 general business terms, innovative engineering or cost-reduction  
377 terms, finance plans, and the need for state funds to deliver  
378 the project. If the department is not satisfied with the results  
379 of the negotiations, the department may, at its sole discretion,  
380 terminate negotiations with the proposer. If these negotiations  
381 are unsuccessful, the department may go to the second-ranked and  
382 lower-ranked firms, in order, using this same procedure. If only  
383 one proposal is received, the department may negotiate in good  
384 faith and, if the department is not satisfied with the results  
385 of the negotiations, the department may, at its sole discretion,  
386 terminate negotiations with the proposer. Notwithstanding this  
387 subsection, the department may, at its discretion, reject all  
388 proposals at any point in the process up to completion of a  
389 contract with the proposer.

390 (e) The department shall provide an independent analysis  
391 of the proposed public-private partnership that demonstrates the  
392 cost-effectiveness and overall public benefit at the following  
393 times:

394 1. Before ~~Prior to~~ moving forward with the procurement;

395 and

396 2. If the procurement moves forward, before ~~prior to~~  
397 awarding the contract.

398 (8) Before or in connection with the negotiation of a  
399 comprehensive agreement, the department may enter into an  
400 interim agreement with the private entity proposing the



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401 development or operation of the qualifying project. An interim  
402 agreement does not obligate the department to enter into a  
403 comprehensive agreement. The interim agreement is discretionary  
404 with the parties and is not required on a qualifying project for  
405 which the parties may proceed directly to a comprehensive  
406 agreement without the need for an interim agreement. An interim  
407 agreement must be limited to provisions that:

408 (a) Authorize the private entity to commence activities  
409 for which it may be compensated related to the proposed  
410 qualifying project, including, but not limited to, project  
411 planning and development, design, environmental analysis and  
412 mitigation, survey, other activities concerning any part of the  
413 proposed qualifying project, and ascertaining the availability  
414 of financing for the proposed facility or facilities.

415 (b) Establish the process and timing of the negotiation of  
416 the comprehensive agreement.

417 (c) Contain such other provisions that the department and  
418 the private entity deem appropriate related to an aspect of the  
419 development or operation of a qualifying project.

420 (9)-(8) The department may enter into a comprehensive  
421 agreement ~~public-private partnership agreements~~ that includes  
422 ~~include~~ extended terms providing annual payments for performance  
423 based on the availability of service or the facility being open  
424 to traffic or based on the level of traffic using the facility.  
425 In addition to other provisions in this section, the following

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426 provisions shall apply:

427 (a) The annual payments under such comprehensive agreement  
 428 shall be included in the department's tentative work program  
 429 developed under s. 339.135 and the long-range transportation  
 430 plan for the applicable metropolitan planning organization  
 431 developed under s. 339.175. The department shall ensure that  
 432 annual payments on multiyear comprehensive ~~public-private~~  
 433 ~~partnership~~ agreements are prioritized ahead of new capacity  
 434 projects in the development and updating of the tentative work  
 435 program.

436 (b) The annual payments are subject to annual  
 437 appropriation by the Legislature as provided in the General  
 438 Appropriations Act in support of the first year of the tentative  
 439 work program.

440 ~~(11)-(10)~~ Before ~~Prior to~~ entering into such comprehensive  
 441 agreement where funds are committed from the State  
 442 Transportation Trust Fund, the project must be prioritized as  
 443 follows:

444 (a) The department, in coordination with the local  
 445 metropolitan planning organization, shall prioritize projects  
 446 included in the Strategic Intermodal System 10-year and long-  
 447 range cost-feasible plans.

448 (b) The department, in coordination with the local  
 449 metropolitan planning organization or local government where  
 450 there is no metropolitan planning organization, shall prioritize

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451 projects, for facilities not on the Strategic Intermodal System,  
 452 included in the metropolitan planning organization cost-feasible  
 453 transportation improvement plan and long-range transportation  
 454 plan.

455 (12) ~~(11)~~ Comprehensive ~~Public-private partnership~~  
 456 agreements under this section shall be limited to a term not  
 457 exceeding 50 years. Upon making written findings that a  
 458 comprehensive ~~an~~ agreement under this section requires a term in  
 459 excess of 50 years, the secretary of the department may  
 460 authorize a term of up to 75 years for projects that are  
 461 partially or completely funded from project user fees.

462 Comprehensive agreements under this section shall not have a  
 463 term in excess of 75 years unless specifically approved by the  
 464 Legislature. The department shall identify each new project  
 465 under this section with a term exceeding 75 years in the  
 466 transmittal letter that accompanies the submittal of the  
 467 tentative work program to the Governor and the Legislature in  
 468 accordance with s. 339.135.

469 (14) ~~(13)~~ In connection with a proposal to finance or  
 470 refinance a transportation facility pursuant to this section,  
 471 the department shall consult with the Division of Bond Finance  
 472 of the State Board of Administration. The department shall  
 473 notify the division before entering into an interim or  
 474 comprehensive agreement and provide the division with the  
 475 information necessary to provide timely consultation and

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476 recommendations. The Division of Bond Finance may make an  
 477 independent recommendation to the Executive Office of the  
 478 Governor.

479 Section 7. Subsection (5) of section 336.044, Florida  
 480 Statutes, is amended to read:

481 336.044 Use of recyclable materials in construction.—

482 (5) Notwithstanding any law, rule, or ordinance to the  
 483 contrary, a local governmental entity may not adopt standards or  
 484 specifications that are contrary to the department standards or  
 485 specifications for permissible use of reclaimed asphalt pavement  
 486 material and may not deem reclaimed asphalt pavement in  
 487 ~~construction. For purposes of this section, such material as may~~  
 488 ~~not be considered~~ solid waste.

489 Section 8. Paragraph (e) of subsection (7) and subsection  
 490 (13) of section 337.11, Florida Statutes, are amended to read:

491 337.11 Contracting authority of department; bids;  
 492 emergency repairs, supplemental agreements, and change orders;  
 493 combined design and construction contracts; progress payments;  
 494 records; requirements of vehicle registration.—

495 (7)

496 (e) For design-build contracts and phased design-build  
 497 contracts, the department must receive at least three letters of  
 498 interest in order to proceed with a request for proposals. The  
 499 department shall request proposals from no fewer than three of  
 500 the ~~design-build~~ firms submitting letters of interest. If a

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501 ~~design-build~~ firm withdraws from consideration after the  
 502 department requests proposals, the department may continue if at  
 503 least two proposals are received.

504 (13) A motor vehicle used ~~Each contract let by the~~  
 505 ~~department~~ for the performance of road or bridge construction or  
 506 maintenance work on a department project must ~~shall require all~~  
 507 ~~motor vehicles that the contractor operates or causes to be~~  
 508 ~~operated in this state to~~ be registered in compliance with  
 509 chapter 320.

510 Section 9. Paragraphs (a) and (d) of subsection (1) of  
 511 section 337.18, Florida Statutes, are amended to read:

512 337.18 Surety bonds for construction or maintenance  
 513 contracts; requirement with respect to contract award; bond  
 514 requirements; defaults; damage assessments.—

515 (1)(a) A surety bond shall be required of the successful  
 516 bidder in an amount equal to the awarded contract price.  
 517 However, the department may choose, in its discretion and  
 518 applicable only to multiyear maintenance contracts, to allow for  
 519 incremental annual contract bonds that cumulatively total the  
 520 full, awarded, multiyear contract price. The department may also  
 521 choose, in its discretion and applicable only to phased design-  
 522 build contracts under s. 337.11(7)(b), to allow the issuance of  
 523 multiple contract performance and payment bonds in succession to  
 524 align with each phase of the contract to meet the bonding  
 525 requirement in this subsection.

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526 1. The department may waive the requirement for all or a  
527 portion of a surety bond if:

528 a. The contract price is \$250,000 or less and the  
529 department determines that the project is of a noncritical  
530 nature and that nonperformance will not endanger public health,  
531 safety, or property;

532 b. The prime contractor is a qualified nonprofit agency  
533 for the blind or for the other severely handicapped under s.  
534 413.036(2); or

535 c. The prime contractor is using a subcontractor that is a  
536 qualified nonprofit agency for the blind or for the other  
537 severely handicapped under s. 413.036(2). However, the  
538 department may not waive more than the amount of the  
539 subcontract.

540 2. If the department ~~Secretary of Transportation or the~~  
541 ~~secretary's designee~~ determines that it is in the best interests  
542 of the department to reduce the bonding requirement for a  
543 project and that to do so will not endanger public health,  
544 safety, or property, the department may waive the requirement of  
545 a surety bond in an amount equal to the awarded contract price  
546 for a project having a contract price of \$250 million or more  
547 and, in its place, may set a surety bond amount that is a  
548 portion of the total contract price and provide an alternate  
549 means of security for the balance of the contract amount that is  
550 not covered by the surety bond or provide for incremental surety

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551 bonding and provide an alternate means of security for the  
552 balance of the contract amount that is not covered by the surety  
553 bond. Such alternative means of security may include letters of  
554 credit, United States bonds and notes, parent company  
555 guarantees, and cash collateral. The department may require  
556 alternate means of security if a surety bond is waived. The  
557 surety on such bond shall be a surety company authorized to do  
558 business in the state. All bonds shall be payable to the  
559 department and conditioned for the prompt, faithful, and  
560 efficient performance of the contract according to plans and  
561 specifications and within the time period specified, and for the  
562 prompt payment of all persons defined in s. 713.01 furnishing  
563 labor, material, equipment, and supplies for work provided in  
564 the contract; however, whenever an improvement, demolition, or  
565 removal contract price is \$25,000 or less, the security may, in  
566 the discretion of the bidder, be in the form of a cashier's  
567 check, bank money order of any state or national bank, certified  
568 check, or postal money order. The department shall adopt rules  
569 to implement this subsection. Such rules shall include  
570 provisions under which the department shall refuse to accept  
571 bonds on contracts when a surety wrongfully fails or refuses to  
572 settle or provide a defense for claims or actions arising under  
573 a contract for which the surety previously furnished a bond.

574 (d) An action, except an action for recovery of retainage,  
575 must be instituted by a claimant, regardless of whether in

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576 | privity with the contractor ~~or not~~, against the contractor or  
 577 | the surety on the payment bond or the payment provisions of a  
 578 | combined payment and performance bond within 365 days after the  
 579 | performance of the labor or completion of delivery of the  
 580 | materials or supplies. An action for recovery of retainage must  
 581 | be instituted against the contractor or the surety within 365  
 582 | days after final acceptance of the contract work by the  
 583 | department. A claimant may not waive in advance his or her right  
 584 | to bring an action under the bond against the surety. In any  
 585 | action brought to enforce a claim against a payment bond under  
 586 | this section, the prevailing party is entitled to recover a  
 587 | reasonable fee for the services of his or her attorney for trial  
 588 | and appeal or for arbitration, in an amount to be determined by  
 589 | the court, which fee must be taxed as part of the prevailing  
 590 | party's costs, as allowed in equitable actions.

591 | Section 10. Section 337.195, Florida Statutes, is amended  
 592 | to read:

593 | 337.195 Limits on liability.—

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

595 | (a) "Contract documents" has the same meaning as in the  
 596 | applicable contract between the department and the contractor.

597 | (b) "Contractor" means a person or an entity, at any  
 598 | contractual tier, including any member of a design-build team  
 599 | pursuant to s. 337.11, who constructs, maintains, or repairs a



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600 highway, road, street, bridge, or other transportation facility  
 601 for the department in connection with a department project.

602 (c) "Design engineer" means a person or an entity,  
 603 including the design consultant of a design-build team, who  
 604 contracts at any tier to prepare or provide engineering plans,  
 605 including traffic control plans, for the construction or repair  
 606 of a highway, road, street, bridge, or other department  
 607 transportation facility for the department or in connection with  
 608 a department project.

609 (d) "Traffic control plans" means the maintenance of  
 610 traffic plans designed by a professional engineer, or otherwise  
 611 in accordance with the department's standard plans, and approved  
 612 by the department.

613 (2)-(1) In a civil action for the death of or injury to a  
 614 person, or for damage to property, against the department ~~of~~  
 615 ~~Transportation~~ or its agents, consultants, or contractors for  
 616 work performed on a highway, road, street, bridge, or other  
 617 transportation facility when the death, injury, or damage  
 618 resulted from a motor vehicle crash within a construction zone  
 619 in which the driver of one of the vehicles was under the  
 620 influence of alcoholic beverages as set forth in s. 316.193,  
 621 under the influence of any chemical substance as set forth in s.  
 622 877.111, under the influence of marijuana as authorized by s.  
 623 381.986, excluding low-THC cannabis, or illegally under the  
 624 influence of any substance controlled under chapter 893 to the

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625 extent that her or his normal faculties were impaired or that  
626 she or he operated a vehicle recklessly as defined in s.  
627 316.192, it is presumed that the driver's operation of the  
628 vehicle was the sole proximate cause of her or his own death,  
629 injury, or damage. This presumption can be overcome if the gross  
630 negligence or intentional misconduct of the department ~~of~~  
631 ~~Transportation~~, or of its agents, consultants, or contractors,  
632 was a proximate cause of the driver's death, injury, or damage.

633 (3)~~(2)~~ A contractor who constructs, maintains, or repairs  
634 a highway, road, street, bridge, or other transportation  
635 facility for the department ~~of Transportation~~ is not liable to a  
636 claimant for personal injury, property damage, or death arising  
637 from the performance of the construction, maintenance, or repair  
638 if, at the time of the personal injury, property damage, or  
639 death, the contractor was in compliance with contract documents  
640 material to the condition that was the proximate cause of the  
641 personal injury, property damage, or death.

642 (a) The limitations ~~limitation~~ on liability contained in  
643 this subsection do ~~does~~ not apply when the proximate cause of  
644 the personal injury, property damage, or death is a latent  
645 condition, defect, error, or omission that was created by the  
646 contractor and not a defect, error, or omission in the contract  
647 documents; or when the proximate cause of the personal injury,  
648 property damage, or death was the contractor's failure to

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649 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic  
 650 control plans ~~safety plan~~ as required by the contract documents.

651 (b) ~~Nothing in~~ This subsection may not ~~shall~~ be  
 652 interpreted or construed as relieving the contractor of any  
 653 obligation to provide the department ~~of Transportation~~ with  
 654 written notice of any apparent error or omission in the contract  
 655 documents.

656 (c) ~~Nothing in~~ This subsection may not ~~shall~~ be  
 657 interpreted or construed to alter or affect any claim of the  
 658 department ~~of Transportation~~ against such contractor.

659 (d) This subsection does not affect any claim of any  
 660 entity against such contractor, which claim is associated with  
 661 such entity's facilities on or in department ~~of Transportation~~  
 662 roads or other transportation facilities.

663 ~~(4)-(3)~~ In all cases involving personal injury, property  
 664 damage, or death, a design engineer is ~~person or entity who~~  
 665 ~~contracts to prepare or provide engineering plans for the~~  
 666 ~~construction or repair of a highway, road, street, bridge, or~~  
 667 ~~other transportation facility for the Department of~~  
 668 ~~Transportation shall be~~ presumed to have prepared such  
 669 engineering plans using the degree of care and skill ordinarily  
 670 exercised by other engineers in the field under similar  
 671 conditions and in similar localities and with due regard for  
 672 acceptable engineering standards and principles if the  
 673 engineering plans conformed to the department's ~~Department of~~

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674 ~~Transportation's~~ design standards material to the condition or  
675 defect that was the proximate cause of the personal injury,  
676 property damage, or death. This presumption can be overcome only  
677 upon a showing of the design engineer's ~~person's or entity's~~  
678 gross negligence in the preparation of the engineering plans and  
679 may ~~shall~~ not be interpreted or construed to alter or affect any  
680 claim of the department ~~of Transportation~~ against such design  
681 engineer ~~person or entity~~. The limitation on liability contained  
682 in this subsection does ~~shall~~ not apply to any hidden or  
683 undiscoverable condition created by the design engineer. This  
684 subsection does not affect any claim of any entity against such  
685 design engineer ~~or engineering firm~~, which claim is associated  
686 with such entity's facilities on or in department ~~of~~  
687 ~~Transportation~~ roads or other transportation facilities.

688 (5)(4) If, in any civil action for death, injury, or  
689 damages, ~~against~~ the Department of Transportation or a  
690 contractor or design engineer is determined to be its agents,  
691 ~~consultants, engineers, or contractors for work performed on a~~  
692 ~~highway, road, street, bridge, or other transportation facility,~~  
693 ~~if the department, its agents, consultants, engineers, or~~  
694 ~~contractors are~~ immune from liability pursuant to this section  
695 ~~or are not parties to the litigation,~~ the department,  
696 contractor, or design engineer ~~they~~ may not be named on the jury  
697 verdict form or be found to be at fault or responsible for the  
698 injury, death, or damage that gave rise to the damages for the

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699 | theory of liability from which the department, contractor, or  
 700 | design engineer was found to be immune.

701 | Section 11. Subsection (4) of section 337.25, Florida  
 702 | Statutes, is amended to read:

703 | 337.25 Acquisition, lease, and disposal of real and  
 704 | personal property.—

705 | (4) The department may convey, in the name of the state,  
 706 | any land, building, or other property, real or personal, which  
 707 | was acquired under subsection (1) and which the department has  
 708 | determined is not needed for the construction, operation, and  
 709 | maintenance of a transportation facility. When such a  
 710 | determination has been made, property may be disposed of through  
 711 | negotiations, sealed competitive bids, auctions, or any other  
 712 | means the department deems to be in its best interest, with due  
 713 | advertisement for property valued by the department at greater  
 714 | than \$10,000. A sale may not occur at a price less than the  
 715 | department's current estimate of value, except as provided in  
 716 | paragraphs (a)-(d). The department may afford a right of first  
 717 | refusal to the local government or other political subdivision  
 718 | in the jurisdiction in which the parcel is situated, except in a  
 719 | conveyance transacted under paragraph (a), paragraph (c), or  
 720 | paragraph (e). Notwithstanding any provision of this section to  
 721 | the contrary, before any conveyance under this subsection may be  
 722 | made, except a conveyance under paragraph (a) or paragraph (c),  
 723 | the department shall first afford a right of first refusal to

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724 the previous property owner for the department's current  
725 estimate of value of the property. The right of first refusal  
726 must be made in writing and sent to the previous owner via  
727 certified mail or hand delivery, effective upon receipt. The  
728 right of first refusal must provide the previous owner with a  
729 minimum of 30 days to exercise the right in writing and must be  
730 sent to the originator of the offer by certified mail or hand  
731 delivery, effective upon dispatch. If the previous owner  
732 exercises his or her right of first refusal, the previous owner  
733 has a minimum of 90 days to close on the property. The right of  
734 first refusal set forth in this subsection may not be required  
735 for the disposal of property acquired more than 10 years before  
736 the date of disposition by the department. If, within 10 years  
737 after the date of the department's acquisition of the property,  
738 the previous property owner notifies the department, in writing  
739 provided via certified mail to the department's district  
740 secretary of the district in which the property is located, of  
741 the previous property owner's interest in reacquiring the  
742 property, the right to receive the right of first refusal vests  
743 with such previous owner, and the department is thereafter  
744 obligated to issue a right of first refusal to the previous  
745 property owner in accordance with this subsection before  
746 disposal or conveyance of the property, whenever that may occur.  
747 Within 60 days after the department's receipt of the previous  
748 property owner's notice of interest as provided in this

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749 subsection, the department must acknowledge receipt of such  
750 notice, in writing provided via certified mail, to the previous  
751 property owner.

752 (a) If the property has been donated to the state for  
753 transportation purposes and a transportation facility has not  
754 been constructed for at least 5 years, plans have not been  
755 prepared for the construction of such facility, and the property  
756 is not located in a transportation corridor, the governmental  
757 entity may authorize reconveyance of the donated property for no  
758 consideration to the original donor or the donor's heirs,  
759 successors, assigns, or representatives.

760 (b) If the property is to be used for a public purpose,  
761 including, but not limited to, affordable housing as provided in  
762 ss. 125.379 and 166.0451, the property may be conveyed without  
763 consideration to a governmental entity.

764 (c) If the property was originally acquired specifically  
765 to provide replacement housing for persons displaced by  
766 transportation projects, the department may negotiate for the  
767 sale of such property as replacement housing. As compensation,  
768 the state shall receive at least its investment in such property  
769 or the department's current estimate of value, whichever is  
770 lower. It is expressly intended that this benefit be extended  
771 only to persons actually displaced by the project. Dispositions  
772 to any other person must be for at least the department's  
773 current estimate of value.

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774 (d) If the department determines that the property  
 775 requires significant costs to be incurred or that continued  
 776 ownership of the property exposes the department to significant  
 777 liability risks, the department may use the projected  
 778 maintenance costs over the next 10 years to offset the  
 779 property's value in establishing a value for disposal of the  
 780 property, even if that value is zero.

781 (e) If, at the discretion of the department, a sale to a  
 782 person other than an abutting property owner would be  
 783 inequitable, the property may be sold to the abutting owner for  
 784 the department's current estimate of value.

785 Section 12. Paragraph (a) of subsection (3) of section  
 786 338.26, Florida Statutes, is amended to read:

787 338.26 Alligator Alley toll road.—

788 (3)(a) Fees generated from tolls shall be deposited in the  
 789 State Transportation Trust Fund and shall be used:

790 1. To reimburse outstanding contractual obligations;

791 2. To operate and maintain the highway and toll  
 792 facilities, including reconstruction and restoration;

793 3. To pay for those projects that are funded with  
 794 Alligator Alley toll revenues and that are contained in the  
 795 1993-1994 adopted work program or the 1994-1995 tentative work  
 796 program submitted to the Legislature on February 22, 1994; and

797 4. By interlocal agreement ~~effective July 1, 2019, through~~  
 798 ~~no later than June 30, 2027,~~ to reimburse a local governmental



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799 | entity for the direct actual costs of operating the fire station  
 800 | at mile marker 63 on Alligator Alley, which shall be used by the  
 801 | local governmental entity to provide fire, rescue, and emergency  
 802 | management services exclusively to the public on Alligator  
 803 | Alley. The local governmental entity must contribute 10 percent  
 804 | of the direct actual operating costs.

805 | a. The interlocal agreement effective July 1, 2019,  
 806 | through no later than June 30, 2027, shall control until such  
 807 | time that the local governmental entity and the department enter  
 808 | into a new agreement or agree to extend the existing agreement.  
 809 | For the 2024-2025 fiscal year, the amount of reimbursement shall  
 810 | not exceed \$2 million.

811 | b. By December 31, 2024, and every 5 years thereafter, the  
 812 | local governmental entity shall provide a maintenance and  
 813 | operations comprehensive plan to the department. The  
 814 | comprehensive plan must include a current inventory of assets,  
 815 | including their projected service life, and area service needs;  
 816 | the call and response history for emergency services provided in  
 817 | the preceding 5 years on Alligator Alley, including costs; and  
 818 | future projections for assets and equipment, including  
 819 | replacement or purchase needs, and operating costs.

820 | c. The local governmental entity and the department shall  
 821 | review and adopt the comprehensive plan as part of the  
 822 | interlocal agreement.

823 | d. In accordance with projected incoming toll revenues for

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824 Alligator Alley, the department shall include the corresponding  
 825 funding needs of the comprehensive plan in the department's work  
 826 program, and the local governmental entity shall include the  
 827 same in its capital comprehensive plan and the appropriate  
 828 fiscal year budget ~~The amount of reimbursement to the local~~  
 829 ~~governmental entity may not exceed \$1.4 million in any state~~  
 830 ~~fiscal year.~~

831 e. At the end of the term of the interlocal agreement, the  
 832 ownership and title of all fire, rescue, and emergency equipment  
 833 purchased with state funds and used at the fire station during  
 834 the term of the interlocal agreement transfers to the state.

835 Section 13. Section 339.28201, Florida Statutes, is  
 836 created to read:

837 339.28201 Local Agency Program.—

838 (1) There is created within the department a Local Agency  
 839 Program for the purpose of providing assistance to subrecipient  
 840 agencies, which include counties, municipalities,  
 841 intergovernmental agencies, and other eligible governmental  
 842 entities, to develop, design, and construct transportation  
 843 facilities using funds allocated by federal agencies to the  
 844 department which are then suballocated by the department to  
 845 local agencies.

846 (2) The department is responsible for oversight of funded  
 847 projects on behalf of the Federal Highway Administration. The  
 848 department shall update the project cost estimate in the year

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849 the project is granted to the local agency and shall include a  
 850 contingency amount as part of the project cost estimate.

851 (3) Local agencies shall prioritize and budget local  
 852 projects through their respective metropolitan planning  
 853 organizations or governing boards that are eligible for  
 854 reimbursement for the services provided to the traveling public  
 855 through compliance with applicable federal statutes, rules, and  
 856 regulations.

857 (4) Federal-aid highway funds are available only to local  
 858 agencies that are certified by the department based on their  
 859 qualifications, experience, ability to comply with federal  
 860 requirements, and ability to undertake and satisfactorily  
 861 complete the work.

862 (5) At a minimum, such local agencies shall include in  
 863 their contracts to develop, design, or construct transportation  
 864 facilities the department's Division I General Requirements and  
 865 Covenants for local agencies and a contingency amount in the  
 866 project cost to account for unforeseen conditions.

867 Section 14. Subsection (3) of section 339.2825, Florida  
 868 Statutes, is amended to read:

869 339.2825 Approval of contractor-financed projects.—

870 (3) This section does not apply to a comprehensive public-  
 871 private partnership agreement authorized in s. 334.30 (2) (a).

872 Section 15. Subsection (4) of section 627.06501, Florida  
 873 Statutes, is amended to read:

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874           627.06501 Insurance discounts for certain persons  
875 completing driver improvement course.—

876           (4) This section does not apply if the driver improvement  
877 course is taken in lieu of a court appearance for a traffic  
878 infraction as provided for in s. 318.14(9). However, the eight-  
879 election ~~five-election~~ restriction enumerated in that section is  
880 not applicable to taking the course for the purposes of  
881 receiving insurance premium reductions.

882           Section 16. This act shall take effect July 1, 2024.