

JOURNAL OF THE FLORIDA SENATE

Wednesday, May 29, 1974

The Senate was called to order by the President Pro Tempore at 9:00 a.m. A quorum present—38:

Brantley	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
Deeb	Johnston	Saunders	Weber
de la Parte	Lane (31st)	Sayler	Williams
Firestone	Lane (23rd)	Scarborough	Wilson
Gallen	Lewis	Sims	Winn
Gillespie	McClain	Smathers	Zinkil
Glisson	Myers	Stolzenburg	
Graham	Peterson	Sykes	
Gruber	Pettigrew	Trask	

Excused: Senator Horne until 10:40 a.m. and Senator Smathers from 9:30 a.m. until 10:40 a.m. in discharge of administrative duties, Senators Graham and Williams periodically for the purpose of working on conference committee reports.

Prayer by the Senate Chaplain:

Our God, the going gets more than a little rough in this business of legislation. Our best endeavors are so often gnawed at by simplistic critics, by those whose ulterior motives have been thwarted and by the angry voices of those whose narrow prejudices keep slipping farther into the background of social history. Like your servant Moses, confronted by his critics, we, too, could become abysmally depressed and throw down our own particular tablets of law and order. We confess this temptation comes to us in weariness and weakness as well as in frustration. Help our Senators with extra strength needed in these trying days and hours. Dear God, we need leaders, unusual people, unusually stable for these unusual times. Let these Senators strive to be such people. To this end give them spiritual and moral stamina. We pray in the name of our Lord. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following pass: HB 1542 (cs 1542, 1370)

The Committee on Rules and Calendar recommends the following pass: HB 1543, with 2 amendments

The bills contained in the foregoing reports were placed on the Calendar.

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Wednesday, May 29, 1974, at 9:00 a.m.:

CS for CS	HB 3777	HB 4005	SB 466
for HB 3096	HB 1837	HB 2346	HB 3754
SB 889	SB 1120	SB 263	SB 739
SB 880	HB 2892	HM 3359	SB 281
SB 633	SJR 819	HB 1814	SB 709
SB 877	CS for HB 1936	SB 931	SB 1043

SPECIAL AND CONTINUING ORDER AT 2:00 p.m.:

CS for CS for HB 3418 HB 1542 (CS 1542, 1370) HB 1543

Respectfully submitted,
Dempsey J. Barron, Chairman

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Pettigrew, HB 3490 was withdrawn from the Committee on Criminal Justice by two-thirds vote.

On motion by Senator McClain, HB 2550 was withdrawn from the Committee on Criminal Justice by two-thirds vote and placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 10 days for the consideration of the following:

SB 682 by Senator Trask HB 3610 by Representative Rish
SB 691 by Senator Trask

The Committee on Judiciary requests an extension of 10 days for the consideration of the following:

SB 527 by Senator Gallen SB 690 by Senator McClain
SB 611 by Senator Gallen SB 697 by Senator Poston
SB 375 by Senator Johnson SB 1039 by Senator Johnson
SB 673 by Senator Gillespie HB 2796 by Representative Forbes
SB 674 by Senator Myers

By direction of the President the following Conference Committee Report was read:

CONFERENCE COMMITTEE REPORT ON SB 277

The Honorable Mallory E. Horne
President of the Senate

May 28, 1974

The Honorable T. Terrell Sessums
Speaker, House of Representatives

Sirs:

Your Conference Committee on the disagreeing votes of the two Houses on SB 277, same being:

An act relating to health and rehabilitative services; requiring licenses for child care facilities; establishing legislative intent; providing definitions; providing for a child care advisory council and its membership; establishing duties of the council; providing for state minimum licensing standards; providing for designation of local licensing agency; providing for approval of licensing agency; providing for issuance and renewal of licenses; providing for coordination of inspections; providing for provisional licenses; providing for hearing upon denial or revocation of licenses; providing for inspection; providing for injunction; providing for reporting of family day care homes; providing for supportive services; providing for exemptions; providing a funding formula; providing an effective date.

having met, and after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

1. That the House of Representatives recede from the House Amendment to Senate Amendment C to House Amendment #1.
2. That the Senate recede from the two Senate Amendments to House Amendment to Senate Amendment C to House Amendment #1, and further recede from Senate Amendment C to House Amendment #1.
3. That the Senate and House of Representatives adopt the Conference Committee Amendments Nos. 1, 2 and 3 attached hereto, and by reference made a part of this report.

George I. Baumgartner
Elaine Gordon
Mary R. Grizzle

Kenneth M. Myers
Jack D. Gordon
Walter Sims

Conference Committee Amendment 1—On page 1, line 12, after "programs." insert: It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in this act shall give any governmental agency jurisdiction or authority to regulate, supervise or in any way be involved in any Sunday school, Sabbath school, religious services, or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending such services.

Conference Committee Amendment 2—On page 1, lines 14—17, strike all of lines 14 through 17

Conference Committee Amendment 3—On page 11, lines 15—27, strike all of lines 15 through 27 and insert: Section 16. Exemptions.—

(1) The provisions of this act shall not apply to a child care facility which is an integral part of church or parochial schools conducting regularly scheduled classes, courses of study or educational programs accredited by or a member of an organization which publishes and requires compliance with its standards for health, safety, and sanitation; provided, however, that such facilities shall meet minimum requirements of the applicable local governing body as to health, sanitation, and safety.

(2) Any counties or cities with state or local child care licensing programs in existence on the effective date of this act will continue to license the child care facilities as covered by such programs, notwithstanding the provisions of subsection (1), until and unless the licensing agency makes a determination to exempt them.

(3) Any child care facility covered by the exemption provisions of subsection (1), but desiring to be included in this act, is authorized to do so by submitting notification to the department. Once licensed, such facility cannot withdraw from the act and continue to operate.

On motion by Senator Myers the report of the Conference Committee was adopted and SB 277 passed as recommended. The vote was:

Yeas—32

Brantley	Gruber	Peterson	Sykes
Childers	Henderson	Pettigrew	Trask
de la Parte	Johnson	Poston	Vogt
Firestone	Lane (31st)	Saylor	Ware
Gallen	Lane (23rd)	Scarborough	Williams
Gillespie	Lewis	Sims	Wilson
Glisson	McClain	Smathers	Winn
Graham	Myers	Stolzenburg	Zinkil

Nays—None

By unanimous consent, Senator Johnston was recorded as voting yea.

INTRODUCTION

The following measures were read the first time by title and referred to committee(s) as indicated:

By Senators Johnston and Childers—

SB 1121—A bill to be entitled An act relating to the Santa Rosa Island Authority; adding subsection (13) to §2, chapter 24500, Laws of Florida, 1947, as amended; empowering the county commissioners of Escambia County to veto any act of the Santa Rosa Island Authority; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1121.

—to Rules and Calendar.

By Senators Johnston and Childers—

SB 1122—A bill to be entitled An act relating to the Santa Rosa county beach administration; adding subsection (13) to §2, chapter 27881, Laws of Florida, 1951; empowering the county commissioners of Santa Rosa county to veto any act of the Santa Rosa county beach administration; amending §3(b) and (d), chapter 27881, Laws of Florida, 1951, as amended by §1, chapter 59-1822, Laws of Florida; providing that said administration consists of five members; providing that three members constitute a quorum and that action may be taken upon the affirmative vote of three members; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1122.

—to Rules and Calendar.

By Senators Johnston and Childers—

SB 1123—A bill to be entitled An act relating to the Okaloosa Island Authority; adding subsection (18) to §2, chapter 29336, Laws of Florida, 1953, as amended; empowering the county

commissioners of Okaloosa county to veto any act of the Okaloosa Island Authority; amending §3(b), chapter 29336, Laws of Florida, 1953; providing that the county commissioners of Okaloosa county appoint the members of said authority; repealing §3(i), chapter 29336, Laws of Florida, 1953, as added by §1, chapter 31054, Laws of Florida, 1955, which provides for two additional members of said authority; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1123.

—to Rules and Calendar.

By Senators Childers and Johnston—

SB 1124—A bill to be entitled An act relating to Escambia county; amending §3 of chapter 67-1373, Laws of Florida, as amended, to provide that each member of the Escambia electronic data processing management board receive one hundred dollars per month for expenses and per diem and traveling expenses; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1124.

—to Rules and Calendar.

By Senators Childers and Johnston—

SB 1125—A bill to be entitled An act relating to Escambia County; amending §1, chapter 73-457, Laws of Florida; providing that payment of an expense allowance to members of the board of county commissioners and to members of the school board shall be in lieu of per diem and traveling expenses for Class C travel pursuant to section 112.061, Florida Statutes; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1125.

—to Rules and Calendar.

MESSAGES FROM THE GOVERNOR

The Governor advised that he had filed in the office of the Secretary of State SB 325 and CS for SB 101 which he had approved May 28; Senate Bills 264 and 300 which he had approved May 29.

The Governor advised that he had transmitted to the office of the Secretary of State Senate Bills 192, 239, 475 and CS for SB 727 which will become law without his signature.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 28, 1974

I am directed to inform the Senate that the House of Representatives has refused to return as requested CS for SB 84.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has refused to return as requested HB 3020.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 28, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments A, B and C to House amendment 1 and passed CS for SB 215, as further amended.

Allen Morris, Clerk

The bill was ordered engrossed.

The Honorable Mallory E. Horne, President May 28, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended—

CS for HB 2700 HB 3287 HB 2407
CS for HB 2802

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 27, 1974

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1, 2, 3 and 4 to HB 1554 (cs) and requests the Senate to recede.

By the Committee on Appropriations and Representatives Mixson and Cherry—

HB 1554 (cs)—A bill to be entitled An act relating to state officers and employees; authorizing a group health insurance program; amending subsection (2), (7), and (8) of section 112.075, Florida Statutes, and adding a new subsection (10); including personnel employed for eight (8) months or more; providing for promulgation of administrative rules; providing for the deposit of interest and funds in the general revenue fund; providing an effective date.

Allen Morris, Clerk

Amendment 1—On page 1, line 17, after “subsections” insert: (1),

Amendment 2—On page 1, line 20, after “program.—” insert: (1)(b) The purpose of this section is to authorize a group life, health and accident insurance benefit program for all state officers and all full-time state employees holding salaried positions.

Amendment 3—On page 1 in title, line 5, strike “health insurance program;” and insert: life, health and accident insurance benefit program;

Amendment 4—On page 1 in the title, line 6, after “subsection” insert: (1),

On motions by Senator Saylor the Senate refused to recede from Senate Amendments 1, 2, 3 and 4 to HB 1554 (cs) and again requested the House to concur.

The Honorable Mallory E. Horne, President May 27, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Agriculture—

SB 450—A bill to be entitled An act relating to agricultural road guard inspection; amending section 570.15, Florida Statutes; amending chapter 570, Florida Statutes, by adding section 570.151; authorizing the appointment of special officers; prescribing duties and authority of special officers; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 1—3, strike everything after the enacting clause and insert:

Section 1. Section 570.15, Florida Statutes, 1973, is amended to read and subsection (2) of section 570.15, Florida Statutes, is created to read:

570.15 Access to places, ~~place~~ of business and vehicles.—

(1) The commissioner, assistant commissioner, directors, counsel, experts, chemists, agents, *inspectors, road guard inspection special officers*, and other employees and officers of the department shall have full access at all reasonable hours to all places of business, factories, farm buildings, carriages, railroad cars, *trucks*, motor vehicles, *truck and motor vehicle*

trailers and vessels whose apparent purpose is to carry cargo, excluding, however, private passenger automobiles with no vehicle in tow, used or which may be used in the production, manufacture, storage, sales or transportation within the state of any food product or agricultural, horticultural, or livestock product or of any article or product with respect of which any authority is conferred by law on the department and all records pertaining thereto. If such access be refused by the owner, agent or manager of such premises or the driver of such truck or motor vehicle, the inspector or road guard inspection special officer may apply for a search warrant which shall be obtained as provided by law for the obtaining of search warrants in other cases, or such road guard inspection special officers shall have the authority, without warrant, to enter any of the aforesaid places or vehicles when they have reasonable and probable cause to believe that the provisions of this chapter have been violated. The refusal to admit an inspector to any of the above premises, during reasonable hours, shall be construed as prima facie evidence of violation of this section. Such departmental officers, and employees and road guard inspection special officers may examine and open any package or container of any kind containing or believed to contain any article or product which may be transported, manufactured, sold or exposed for sale in violation of the provisions of this chapter, or of the rules of the department, or of the laws which the department enforces, and may inspect the contents thereof, and take therefrom samples for analysis.

(2) *It shall be unlawful for any truck, or truck or motor vehicle trailer to pass any official road guard inspection station without first stopping for inspection. A violation of this subsection shall constitute a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.*

Section 2. Section 570.151, Florida Statutes, is created to read:

570.151 Appointment and duties of road guard inspection special officers.—

(1) The department may appoint as special officers a sufficient number of inspectors to carry out the duties of the department in road guard inspection administered by the department. Said officers shall be known as road guard inspection special officers. Each such special officer shall be covered by a public employee's faithful performance of duty bond, with a corporate surety authorized to do business in this state, in the amount of one thousand dollars (\$1,000), to be approved by the department conditioned upon the faithful performance of his duties and payable to the governor.

(2) All such special officers shall have power and authority to make arrests, with or without warrants, for the violations of law committed within the jurisdiction of section 570.15, to the same extent and under the same limitations and duties as do peace officers under the provisions of chapter 901, and all such special officers shall have the right and authority to carry arms while on duty, provided such officers shall meet the requirements of the police minimum standards act. The compensation of such special officers shall be fixed and paid by the department.

(3) The department may, at any time for cause, withdraw the appointment as special officer from any inspector assigned to duties of road guard inspection.

Section 3. In the event that any provision or application of this act is held invalid, it is the legislative intent that the other provisions and applications hereof shall not be thereby affected.

Section 4. This act shall take effect July 1, 1974.

Amendment 2—On page 1, lines 3—10, strike the entire title and insert: A bill to be entitled An act relating to agricultural road guard inspection; amending §570.15, Florida Statutes, 1973, relating to inspection of premises and vehicles; providing authority for search without warrant upon probable cause; creating subsection (2) of section 570.15, Florida Statutes, 1973, to provide that it shall be unlawful to pass an inspection station without stopping; providing a penalty; creating section 570.151, Florida Statutes, authorizing the appointment of special officers; prescribing duties and authority of special officers; providing a severability clause; providing an effective date.

On motions by Senator Lewis, the Senate concurred in House amendments 1 and 2 to SB 450.

SB 450 passed as amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—30

Brantley	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
de la Parte	Lane (31st)	Saylor	Weber
Firestone	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Smathers	Winn
Glisson	McClain	Stolzenburg	Zinkil
Graham	Peterson	Sykes	
Gruber	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Johnston and Myers were recorded as voting yea.

The Honorable Mallory E. Horne, President May 28, 1974

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to:

By the Committee on Criminal Justice and Representative Shreve and others—

CS for HB 2179—A bill to be entitled An act relating to criminal law; creating §775.011, Florida Statutes, providing for title and applicability; creating §775.012, Florida Statutes, providing for general purposes; creating §775.021, Florida Statutes, providing for rules of construction; amending §775.08, Florida Statutes, 1973, providing for classes and definitions of offenses; amending §775.082, Florida Statutes, 1973, providing for penalties; amending §775.083, Florida Statutes, 1973, relating to fines; amending §775.084, Florida Statutes, 1973, relating to subsequent felony offenses; creating §775.085, Florida Statutes, relating to extended terms for subsequent misdemeanors; creating §775.086, Florida Statutes, relating to felony reclassification for possession of weapons or for battery; amending §790.23, Florida Statutes; providing that it shall be a felony of the second degree for persons convicted of certain crimes to have a firearm or other weapon; providing that it shall be a felony of the third degree for persons convicted of other felonies to have a firearm or other weapon; renumbering and amending §932.465, Florida Statutes, 1973, relating to time limitations; renumbering and amending §776.011, Florida Statutes, 1973, relating to principal in first degree; renumbering and amending §776.04, Florida Statutes, 1973, relating to attempts, solicitation and conspiracy; creating §§776.012, 776.021, 776.031, 776.041, 776.05, 776.06, 776.07, and 776.08, Florida Statutes, relating to justifiable use of force; amending §782.04, Florida Statutes, 1973, defining the crimes of and providing the penalties for murder; amending §782.07, Florida Statutes, 1973, defining the crime of and providing the penalty for manslaughter; creating §782.071, Florida Statutes, defining the crime of and penalty for vehicular homicide; renumbering and amending §784.02, Florida Statutes, 1973, defining the crime of and providing the penalty for assault; renumbering and amending §784.04, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated assault; amending §784.03, Florida Statutes, 1973, defining the crime of and providing the penalty for battery; amending §784.045, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated battery; amending §784.05, Florida Statutes, 1973, defining the crime of and providing the penalty for culpable negligence; renumbering and amending §805.02, Florida Statutes, 1973, defining the crime of and providing the penalty for kidnapping; renumbering and amending §805.01, Florida Statutes, 1973, defining the crime of and providing the penalty for false imprisonment; creating §787.03, Florida Statutes, defining the crime of and providing the penalty for interference with custody; renumbering and amending §805.03, Florida Statutes, 1973, defining the crime of and providing the penalty for removing children from state; amending §806.01, Florida Statutes, 1973, defining the crimes of and providing the penalties for arson; amending §806.02, Florida Statutes, 1973, defining the crime of and providing the penalties for criminal mischief; amending §806.10, Florida Statutes, 1973, defining the crime of and providing the penalty for obstructing extinguishment of fire; amending §806.111(1), Florida Statutes, 1973, defining the crime of and providing the penalty for possession of fire bombs; creating §810.011, Florida Statutes, providing for definitions; amending §810.02, Florida Statutes, 1973, defining the crime of and providing the penalties for burglary; amending §810.06,

Florida Statutes, 1973, defining the crime of and providing the penalty for possession of burglary tools; amending §810.07, Florida Statutes, 1973, relating to evidence of intent; creating §810.08, Florida Statutes, defining the crime of and providing the penalty for trespass in structure or conveyance; creating §810.09, Florida Statutes, defining the crime of and providing the penalty for trespass on property other than structure or conveyance; renumbering and amending §821.071, Florida Statutes, 1973, defining the crime of and providing the penalty for unlawfully removing notices; renumbering and amending §821.02, Florida Statutes, 1973, defining the crime of and providing the penalty for placing signs adjacent to highway; renumbering and amending §813.011, Florida Statutes, 1973, defining the crimes of and providing the penalties for robbery; creating §812.011, Florida Statutes, providing for definitions; renumbering and amending §811.021, Florida Statutes, 1973, defining the crime of and providing the penalty for larceny; renumbering and amending §811.16, Florida Statutes, 1973, defining the crime of and providing the penalty for receiving stolen property; renumbering and amending §814.04, Florida Statutes, 1973, defining the crime of and providing the penalty for unauthorized use of motor vehicle, etc.; renumbering and amending §811.165(2), Florida Statutes, 1973, relating to records of purchases and sales; renumbering and amending §§799.01 and 799.02, Florida Statutes, 1973, defining the crime of and providing the penalty for bigamy; renumbering and amending §799.03, Florida Statutes, 1973, defining the crime of and providing the penalty for knowingly marrying the spouse of another; creating §826.04, Florida Statutes, defining the crime of and providing the penalty for incest; creating §827.01, Florida Statutes, providing for definitions; renumbering and amending §828.04, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated child abuse; creating §827.04, Florida Statutes, defining the crime of and providing the penalty for child abuse; renumbering and amending §828.042, Florida Statutes, 1973, defining the crime of and providing the penalty for negligent treatment of children; creating §827.06, Florida Statutes, defining the crime of and providing the penalty for persistent nonsupport; creating §837.011, Florida Statutes, providing for definitions; renumbering and amending §837.01, Florida Statutes, 1973, defining the crime of and providing the penalty for perjury not in an official proceeding; amending §837.02, Florida Statutes, 1973, defining the crime of and providing the penalty for perjury in official proceedings; amending §837.021(1), Florida Statutes, 1973, defining the crime of and providing the penalty for perjury by contradictory statements; creating §837.05, Florida Statutes, defining the crime of and providing the penalty for making false reports to law enforcement authorities; creating §837.06, Florida Statutes, defining the crime of and providing the penalty for false official statements; creating §838.014, Florida Statutes, providing for definitions; creating §838.015, Florida Statutes, defining the crime of and providing the penalty for bribery; creating §838.016, Florida Statutes, making unlawful certain compensation or rewards for past official behavior and providing penalty; creating §838.021, Florida Statutes, defining the crime of and providing the penalty for corruption by threat against public servant; creating §838.031, Florida Statutes, defining the crime of and providing the penalty for official misconduct; creating §838.041, Florida Statutes, defining the crime of and providing the penalty for misuse of confidential information; providing that reference to punishable as provided in specific sections of chapter 775 shall be changed to punishable as provided in chapter 775; renumbering §776.03, Florida Statutes, 1973; renumbering §§779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20 and 779.21, Florida Statutes, 1973; renumbering §806.06, Florida Statutes, 1973; renumbering §811.022, Florida Statutes, 1973; renumbering §§811.165 and 811.201, Florida Statutes, 1973; renumbering §814.05, Florida Statutes, 1973; renumbering §814.07, Florida Statutes, 1973; renumbering §823.03, Florida Statutes, 1973; renumbering §828.041, Florida Statutes, 1973; and renumbering §828.201, Florida Statutes, 1973; repealing §741.22, Florida Statutes, 1973, relating to incest; repealing §775.11, Florida Statutes, 1973, relating to prosecution for second offenses; repealing §775.12, Florida Statutes, 1973, relating to limitation of repeal; repealing §§782.01, 782.02, and 782.05, Florida Statutes, 1973, relating to homicide; repealing §784.06, Florida Statutes, 1973, relating to assault; repealing §§794.02, 794.03, 794.04, 794.05, and 794.06, Florida Statutes, 1973, relating to rape; repealing §800.04, Florida Statutes, 1973, relating to crimes against nature; repealing §§806.03, 806.04, 806.05, 806.061, 806.07, 806.08, 806.09, 806.11, and 806.12, Florida Statutes, 1973, relating to arson; repealing §§810.01, 810.03, 810.04, 810.05, and

810.051, Florida Statutes, 1973, relating to burglary; repealing §§811.03, 811.04, 811.163, 811.17, 811.23, 811.29, and 811.30, Florida Statutes, 1973, relating to larceny; repealing §§812.10 and 812.12, Florida Statutes, 1973, relating to embezzlement; repealing §§814.01, 814.02, 814.03, and 814.06, Florida Statutes, 1973, relating to auto theft; repealing §§821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.07, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28, 821.29, 821.30, 821.32, 821.33, 821.34, 821.35, 821.37, and 821.38, Florida Statutes, 1973, relating to trespass and injury to real property; repealing §§822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, and 822.23, Florida Statutes, 1973, relating to malicious injury to buildings; repealing §§823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, and 823.10, Florida Statutes, 1973, relating to nuisances and doors of certain buildings; repealing §§828.01, 828.06, 828.07, 828.09, 828.10, 828.11, 828.18, 828.19, 828.20, and 828.21, Florida Statutes, 1973, relating to cruelty to animals and children; repealing §§833.03, 833.04, and 833.05, Florida Statutes, 1973, relating to conspiracy; repealing §§837.01, 837.03, and 837.04, Florida Statutes, 1973, relating to perjury; repealing §§838.01, 838.011, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, and 838.10, Florida Statutes, 1973, relating to bribery; repealing §§851.01, 851.02, 851.03, and 851.04, Florida Statutes, 1973, relating to bucket shops; providing an effective date.

—and requests the Senate to recede, and in the event the Senate refuses to recede requests a Conference Committee.

Allen Morris, Clerk

Amendment 1—On page 9, line 3, strike everything after the enacting clause and insert:

Section 1. Section 775.011, Florida Statutes, is created to read:

775.011 Short title; applicability to antecedent offenses.—

(1) This act shall be known and may be cited as the “Florida Criminal Code.”

(2) Except as provided in subsection (3) of this section, the code does not apply to offenses committed prior to its effective date and prosecutions for such offenses shall be governed by the prior law. For the purposes of this section, an offense was committed prior to the effective date of the code if any of the material elements of the offense occurred prior thereto.

(3) In any case pending on or after the effective date of the code, involving an offense committed prior to such date, the provisions of the code involving any quasi-procedural matter shall govern, insofar as they are justly applicable. The provisions of the code according a defense or mitigation or establishing a penalty shall apply only with the consent of the defendant.

Section 2. Section 775.012, Florida Statutes, is created to read:

775.012 General purposes.—The general purposes of the provisions of the code are:

(1) To proscribe conduct that improperly causes or threatens substantial harm to individual or public interests.

(2) To give fair warning to the people of the State of Florida in understandable language of the nature of the conduct proscribed and of the sentences authorized upon conviction.

(3) To define clearly the material elements constituting an offense, and the accompanying state of mind or criminal intent required of that offense.

(4) To differentiate on reasonable grounds between serious and minor offenses and to establish appropriate disposition for each.

(5) To safeguard conduct that is without fault or legitimate state interest from being condemned as criminal.

(6) To insure the public safety by deterring the commission of offenses, providing for the opportunity for rehabilitation of those convicted, and for their confinement when required in the interests of public protection.

Section 3. Section 775.021, Florida Statutes, is created to read:

775.021 Rules of construction.—

(1) The provisions of this code and offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused.

(2) The provisions of this chapter are applicable to offenses defined by other statutes, unless the code otherwise provides.

(3) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

Section 4. Section 775.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 775.08, F.S., for present text.)

775.08 Classes and definitions of offenses.—When used as the laws of this state:

(1) The term “felony” shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state correctional facility. “State penitentiary” wherever used in the Laws of Florida shall mean “state correctional facility”. A person shall be imprisoned in a state correctional facility for each sentence which, except an extended term, exceeds one year.

(2) The term “misdemeanor” shall mean any criminal offense that is punishable under the laws of this state or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not in excess of one year. The term “misdemeanor” as used in the laws of this state shall not mean any conviction for any violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance.

(3) The term “violation” shall mean any offense that is punishable under the laws of this state or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture or other civil penalty. A violation does not constitute a crime, and conviction for a violation shall not give rise to any legal disability based on a criminal offense. The term “violation” as used in the laws of this state shall not mean any conviction for any violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance.

(4) The term “crime” shall mean a felony or misdemeanor.

Section 5. Section 775.082, Florida Statutes, is amended to read:

775.082 Penalties.—

(1) A person who has been convicted of a capital felony shall be punished by life imprisonment and shall be required to serve no less than twenty-five (25) calendar years before becoming eligible for parole unless the proceeding held to determine sentence according to the procedure set forth in section 921.141 results in findings by the court that such person shall be punished by death, and in the latter event such person shall be punished by death.

~~(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, a person convicted of a capital felony shall be punished by life imprisonment as provided in subsection (1).~~

~~(3) (2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital~~

felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1).

~~(4)~~ (3) A person who has been convicted of any other designated felony may be punished as follows:

(a) For a life felony, by a term of imprisonment ~~in the state prison~~ for life, or for a term of years not less than thirty;

(b) For a felony of the first degree, by a term of imprisonment ~~in the state prison~~ not exceeding thirty (30) years or, when specifically provided by statute, by imprisonment ~~in the state prison~~ for a term of years not exceeding life imprisonment;

(c) For a felony of the second degree, by a term of imprisonment ~~in the state prison~~ not exceeding fifteen (15) years;

(d) For a felony of the third degree, by a term of imprisonment ~~in the state prison~~ not exceeding five (5) years.

~~(5)~~ (4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment ~~in the county jail~~ not exceeding one (1) year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment ~~in the county jail~~ not exceeding sixty (60) days.

(5) *Any person who has been convicted of a violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316, Florida Statutes, or by ordinance of any city or county.*

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) *This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.*

Section 6. Section 775.083, Florida Statutes, is amended to read:

775.083 Fines ~~in lieu of, or in addition to, other criminal penalty.~~—A person who has been convicted of ~~a crime an offense,~~ other than a capital felony, may be sentenced, ~~when specifically designated by statute,~~ to pay a fine ~~in lieu of or in addition to any punishment described in section 775.082, or when specifically authorized by statute,~~ he may be sentenced to pay a fine ~~in lieu of any punishment described in section 775.082.~~ A person who has been convicted of a violation may be sentenced to pay a fine. Fines for designated crimes and for violations shall not exceed:

(1) \$15,000, when conviction is of a life felony;

~~(1)~~ (2) \$10,000 when the conviction is of a felony of the first or second degree;

~~(2)~~ (3) \$5,000, when the conviction is of a felony of the third degree;

~~(3)~~ (4) \$1,000, when the conviction is of a misdemeanor of the first degree;

~~(4)~~ (5) \$500, when the conviction is of a misdemeanor of the second degree or a violation;

~~(5)~~ (6) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

~~(6)~~ (7) Any higher amount specifically authorized by statute.

(8) *If a defendant is unable to pay a fine, the court shall permit him to pay the fine in installments.*

Section 7. Section 775.084, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 775.084, F.S., for present text.)

775.084 Subsequent felony offenders; extended terms.—

(1) Unless otherwise specifically provided by statute, the court, after reasonable notice to the parties and opportunity to be heard, may sentence a person who has been convicted of a felony within this state to punishments provided in this section if it finds all the following:

(a) The imposition of sentence under this section is necessary for the protection of the public from further criminal activity by the defendant.

(b) The defendant has previously committed a felony, or the defendant has previously twice been convicted of a misdemeanor of the first degree, in this state or another qualified offense which was committed after the defendant's eighteenth birthday. For the purpose of this subsection, the term "qualified offense" includes any offense in violation of a law of another state or of the United States that was punishable under the laws of such state or the United States at the time of its commission by the defendant by death or imprisonment exceeding one year, or that was equivalent in penalty to a misdemeanor of the first degree.

(c) The felony for which the defendant is to be sentenced was committed within five years of the date of the commission of the last prior felony, or misdemeanor, or other qualified offense of which he was convicted, or within five years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

(d) The defendant has not received a pardon on the ground of innocence for any felony or other qualified offense that is necessary for the operation of this section.

(e) A conviction of a felony, a misdemeanor or other qualified offense necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the felony for which he is to be sentenced was committed during the probationary period.

(3) The court, in conformity with the criteria specified in subsection (1), may sentence the convicted felon to the state penitentiary as follows:

(a) In the case of a felony of the first degree, for life;

(b) In the case of a felony of the second degree, for a term of years not exceeding 30;

(c) In the case of a felony of the third degree, for a term of years not exceeding 10.

(4) If the court decides that imposition of sentence under this section is not necessary for the protection of the public, sentence shall be imposed without regard to this section.

(5) A sentence imposed under this section shall not be increased after such imposition.

Section 8. Section 775.086, Florida Statutes, is created to read:

775.086 Subsequent misdemeanor offenders; extended terms.—

(1) The court, after reasonable notice to the parties and opportunity to be heard, may sentence a person who has been convicted of a misdemeanor to an extended term of imprisonment as provided in this section if it finds all the following:

(a) The imposition of sentence under this section is necessary for the protection of the public from further criminal activity by the defendant;

(b) The defendant has at least twice previously been convicted of the same crime committed at different times after the defendant's eighteenth birthday;

(c) The misdemeanor for which the defendant is to be sentenced was committed within two years of the date of the commission of the last prior crime, or within two years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a crime, whichever is later;

(d) The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this section;

(e) A conviction of a crime necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent misdemeanor for which he is to be sentenced was committed during such probationary period.

(3) The court, in conformity with the criteria specified in subsection (1), may sentence the convicted misdemeanant as follows:

(a) In the case of a misdemeanor of the first degree, for a term of imprisonment not in excess of three years;

(b) In the case of a misdemeanor of the second degree, for a term not in excess of one year.

(4) A sentence imposed under this section shall not be increased after such imposition.

Section 9. Section 775.087, Florida Statutes, is created to read:

775.087 Possession or use of weapon or aggravated battery; felony reclassification; minimum sentence.—(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant displayed, used, threatened or attempted to use any weapon or firearm, or during the commission of such felony the defendant committed an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) ~~(1)~~ In the case of a felony of the first degree, to a life felony;

(b) ~~(2)~~ In the case of a felony of the second degree, to a felony of the first degree;

(c) ~~(3)~~ In the case of a felony of the third degree, to a felony of the second degree.

(2) Notwithstanding the general application of the penalties elsewhere provided, a minimum sentence of five (5) years shall be imposed for felonies involving threatened or actual use of a firearm, or destructive device as defined in §790.001 (4) and (6). Such minimum sentence shall not be suspended or deferred, and no person serving such a minimum sentence shall be eligible for parole under the provisions of §947.16 during such five (5) year term.

Section 10. Section 932.465, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 932.465, F.S., for present text.)

~~932.465~~ 775.15 Time limitations.—

(1) A prosecution for a capital felony may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a life felony or a felony of the first degree must be commenced within four years after it is committed;

(b) A prosecution for any other felony must be commenced within two years after it is committed;

(c) A prosecution for a misdemeanor of the first degree must be commenced within two years after it is committed;

(d) A prosecution for a misdemeanor of the second degree or a violation must be commenced within one year after it is committed.

(3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; and

(b) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years from the time he leaves public office or employment or during any time permitted by any other part of this section, whichever time is greater.

(4) An offense is committed either when every element occurs or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(5) A prosecution is commenced either when an indictment or information is filed, provided that the capias, summons or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended three months from the time the indictment or information is dismissed or set aside.

(6) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Section 11. Section 776.011, Florida Statutes, is renumbered and amended to read:

776.011 Principal in first degree.—Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed *and such offense is committed or is attempted to be committed*, is a principal in the first degree and may be charged, convicted and punished as such, whether he is or is not actually or constructively present at the commission of such offense.

Section 12. Section 776.04, Florida Statutes, is renumbered and amended to read:

776.04 Attempts, solicitation, conspiracy, generally.—

(1) Whoever attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such an offense, but fails in the perpetration, or is intercepted or prevented in the execution of the same, *commits the offense of criminal attempt and shall*, when no express provision is made by law for the punishment of such attempt, be punished as ~~follows~~ *provided in subsection (4)*.

(2) *Whoever solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense, commits the offense of criminal solicitation, and shall, when no express provision is made by law for the punishment of such solicitation, be punished as provided in subsection (4)*.

(3) *Whoever shall agree, conspire, combine or confederate with another person or persons to commit any offense, commits the offense of criminal conspiracy, and shall, when no express provision is made by law for the punishment of such conspiracy, be punished as provided in subsection (4)*.

(4) *Whoever commits the offense of criminal attempt, solicitation, or conspiracy as defined by this section shall be punished as follows:*

~~(1)(a)~~ *If the offense attempted, solicited, or conspired to is a capital felony or life felony, the person convicted shall be guilty of a felony of the second first degree, punishable as provided in section 775.082, section 775.083 or section 775.084 chapter 775.*

(2)(b) If the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree or second degree, the person convicted shall be guilty of a felony of the third second degree, punishable as provided in section 775.082, section 775-082, or section 775.084 chapter 775.

(c) If the offense attempted, solicited or conspired to is a felony of the second degree or any burglary, the person convicted shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2)(d) If the offense attempted, solicited or conspired to is a felony of the third degree, the person convicted shall be guilty of a misdemeanor of the first degree, punishable as provided in sections 775.082 and 775.083 chapter 775.

(4)(e) If the offense attempted, solicited or conspired to is a misdemeanor of the first or second degree, the person convicted shall be guilty of a misdemeanor of the second degree, punishable as provided in sections 775.082 and 775.083 chapter 775.

(5) It is a defense under this section that, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose, the defendant:

(a) abandoned his attempt to commit the offense or otherwise prevented its commission; or

(b) after soliciting another person to commit an offense, he persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) after conspiring with one or more persons to commit an offense, he persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 13. Sections 776.012, 776.021, 776.031, 776.041, 776-05, 776.06, 776.07, and 776.08, Florida Statutes, are created to read:

CHAPTER 776

JUSTIFIABLE USE OF FORCE

776.012 Use of force in defense of person.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of deadly force only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or to prevent the imminent commission of a forcible felony.

776.021 Use of force in defense of dwelling.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon a dwelling. However, he is justified in the use of deadly force only if:

(1) The entry is made or attempted without permission, and he reasonably believes that such force is necessary to prevent an assault upon, or offer of personal violence to, him or another than in the dwelling, or

(2) He reasonably believes that such force is necessary to prevent the commission of a felony in the dwelling.

776.031 Use of force in defense of other.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on or other tortious or criminal interference with either real property (other than a dwelling) or personal property, lawfully in his possession or in the possession of another who is a member of his immediate family or household or of a person whose property he has a legal duty to protect. However, he is justified in the use of deadly force only if he reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony.

776.041 Use of force by aggressor.—The justification described in the preceding sections of this chapter is not available to a person who:

(1) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or

(2) Initially provokes the use of force against himself, unless:

(a) Such force is so great that he reasonably believes that he is in imminent danger of death or great bodily harm, and that he has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant; or

(b) In good faith, he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

776.05 Law enforcement officers; use of force in making an arrest.—A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force, except deadly force, which he reasonably believes to be necessary to effect the arrest and of any force, except deadly force, which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony, or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life, or inflict great bodily harm unless arrested without delay.

776.051 Use of force in resisting or making an arrest; prohibition.—

(1) A person is not justified in the use of force to resist an arrest by a law enforcement officer who is known, or reasonably appears to be a law enforcement officer.

(2) A law enforcement officer, or any person whom he has summoned or directed to assist him, is not justified in the use of force if the arrest is unlawful and known by him to be unlawful.

776.06 Deadly force.—Deadly force means force which is likely to cause death or great bodily harm and includes, but is not limited to:

(1) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

(2) The firing of a firearm at a vehicle in which the person to be arrested is riding.

776.07 Use of force to prevent escape.—

(1) A law enforcement officer or other person who has an arrested person in his custody is justified in the use of any force which he reasonably believes to be necessary to prevent the escape of the arrested person from custody.

(2) A guard or other law enforcement officer is justified in the use of force, including deadly force, which he reasonably believes to be necessary, to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

776.08 Forcible felony.—Forcible felony means treason, murder, manslaughter, forcible rape, forcible sodomy, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb and other felony which involves the use or threat of physical force or violence against any individual.

Section 14. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being, when perpetrated from a premeditated design to effect the death of the person killed or any human being, or when committed by a person engaged in the perpetration of or in the attempt to perpetrate any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of

a destructive device or bomb, or which resulted from the unlawful distribution of heroin by a person ~~seventeen (17)~~ *eighteen years or older* when such drug is proven to be the proximate cause of the death of the user shall be murder in the first degree and shall constitute a capital felony, punishable as provided in ~~section 775.082~~ *chapter 775*.

(b) In all cases under this section the procedure set forth in section 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) *The unlawful killing of a human being* when perpetrated by any act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual ~~or when committed in the perpetration of or in the attempt to perpetrate any arson, rape, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb, except as provided in subsection (1)~~, it shall be murder in the second degree and shall constitute a felony of the first degree, punishable by imprisonment in the state prison for life ~~or for such term of years as may be determined by the court for a term of years not exceeding life or as provided in chapter 775~~.

(3) *When a person is killed in the perpetration of or in the attempt to perpetrate any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy or unlawful throwing, placing, or discharging of a destructive device or bomb by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony shall be guilty of murder in the second degree which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in chapter 775*.

~~(3)(4)~~ *The unlawful killing of a human being* when perpetrated without any design to effect death, by a person engaged in the perpetration of or in the attempt to perpetrate any felony, other than *any* arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy or unlawful throwing, placing or discharging of a destructive device or bomb, it shall be murder in the third degree and shall constitute a felony of the second degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ *chapter 775*.

Section 15. Section 782.07, Florida Statutes, is amended to read:

782.07 Manslaughter.—The killing of a human being by the act, procurement or culpable negligence of another, *without lawful justification according to the provisions of chapter 776 and in cases where such killing shall not be justifiable or excusable homicide nor murder, according to the provisions of this chapter, shall be deemed manslaughter and shall constitute a felony of the second degree, punishable as provided in section 775.082, section 775.083, or section 775.084* *chapter 775*.

Section 16. Section 782.071, Florida Statutes, is created to read:

782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being by the operation of a motor vehicle by another in a reckless manner likely to cause the death or great bodily harm to another. “Vehicular homicide” is a felony of the third degree punishable as provided in chapter 775.

Section 17. Section 784.02, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 784.02, F.S., for present text.)

~~784.02~~ 784.011 Assault.—

(1) “Assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

(2) Whoever commits an assault shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 18. Section 784.04, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 784.04, F.S., for present text.)

784.04 784.021 Aggravated assault.—

(1) “Aggravated assault” is an assault:

- (a) With a deadly weapon without intent to kill; or
- (b) With an intent to commit a felony.

(2) Whoever commits an aggravated assault shall be guilty of a felony of the third degree punishable as provided in chapter 775.

Section 19. Section 784.03, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.03, F.S., for present text.)

784.03 Battery.—

(1) A person commits battery if he:

- (a) Actually and intentionally touches or strikes another person against the will of the other; or
- (b) Intentionally causes bodily harm to an individual.

(2) Whoever commits battery shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 20. Section 784.045, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.045, F.S., for present text.)

784.045 Aggravated battery.—

(1) A person who in committing battery:

- (a) Intentionally or knowingly causes great bodily harm, permanent disability or permanent disfigurement; or
 - (b) Uses a deadly weapon;
- commits aggravated battery.

(2) Whoever commits aggravated battery shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

Section 21. Section 784.05, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.05, F.S., for present text.)

784.05 Culpable negligence.—

(1) Whoever through culpable negligence, exposes another person to personal injury shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

(2) Whoever through culpable negligence inflicts actual personal injury on another shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 22. Section 805.02, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 805.02, F.S., for present text.)

~~805.02~~ 787.01 Kidnapping.—

(1) “Kidnapping” means forcibly, secretly, or by threat confining, abducting or imprisoning another person against his will and without lawful authority with intent to:

- (a) Hold for ransom or reward, or as a shield or hostage; or
- (b) Commit or facilitate commission of any felony; or
- (c) Inflict bodily harm upon or to terrorize the victim or other person; or
- (d) Interfere with the performance of any governmental or political function.

(2) Confinement of a child under the age of thirteen (13) is against his will within the meaning of subsection (1) if such confinement is without the consent of his parent or legal guardian.

(3) Whoever kidnaps a person is guilty of a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in chapter 775.

Section 23. Section 805.01, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 805.01 F.S., for present text.)

~~805.01~~ 787.02 False imprisonment.—

(1) "False imprisonment" means forcibly, by threat, or secretly confining, abducting, imprisoning or restraining another person without lawful authority and against his will with any purpose other than those referred to in section 787.01.

(2) Confinement of a child under the age of thirteen (13) is against his will within the meaning of this section if such confinement is without the consent of his parent or legal guardian.

(3) Whoever commits the offense of false imprisonment shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 24. Section 787.03, Florida Statutes, is created to read:

787.03 Interference with custody.—

(1) Whoever without lawful authority knowingly or recklessly takes or entices any child seventeen (17) years or under or any incompetent person from the custody of his parent, guardian or other lawful custodian, commits the offense of interference with custody and shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

(2) It is a defense that:

(a) The defendant reasonably believes that his action was necessary to preserve the child or the incompetent person from danger to his welfare; or

(b) The child or incompetent person was taken away at his own instigation without enticement and without purpose to commit a criminal offense with or against the child.

(3) Proof that a child was seventeen (17) years or under creates the presumption that the defendant knew the child's age or acted in reckless disregard thereof.

Section 25. Section 805.03, Florida Statutes, is renumbered and amended to read:

~~805.03~~ 787.04 Felony to remove children from state contrary to court order.—

(1) It is unlawful for any person, in violation of a court order, to lead, take, entice or remove a child beyond the limits of this state with personal knowledge of the order.

(2) It is unlawful for any person, with criminal intent, to lead, take, entice or remove a child beyond the limits of this state during the pendency of any action or proceedings affecting custody of a child after having received notice as required by law of the pendency of the action or proceeding, without the permission of the court in which the action or proceeding is pending.

(3) It is unlawful for any person, who has carried beyond the limits of this state any child whose custody is involved in any action or proceeding pending in this state, pursuant to the order of the court in which the action or proceeding is pending, or pursuant to the permission of the court, thereafter, to fail to produce the child in the court or deliver the child to the person designated by the court.

(4) Any person convicted of a violation of this law shall be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ chapter 775.

Section 26. Section 806.01, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.01, F.S., for present text.)

806.01. Arson.—

(1) Any person who wilfully and maliciously by fire or explosive damages any structure whether the property of himself or another knowing or having reason to know that a human being is in the structure shall be guilty of arson in the first degree which constitutes a felony of the first degree, punishable as provided in chapter 775.

(2) Any person who wilfully and maliciously by fire or explosive damages any structure, whether the property of himself or another under any circumstances not referred to in subsection (1) shall be guilty of arson in the second degree which constitutes a felony of the second degree, punishable as provided in chapter 775.

(3) "Structure" means any building of any kind and any enclosed area with a roof over it, vehicle, vessel or aircraft.

Section 27. Section 806.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.02, F. S., for present text.)

806.02 Criminal mischief.—

(1) A person commits the offense of criminal mischief if he wilfully and maliciously injures or damages by any means any real or personal property belonging to another.

(2) (a) If the damage to such property is two hundred dollars (\$200) or less, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

(b) If the damage to such property is greater than two hundred dollars (\$200) but less than \$1,000, it is a misdemeanor of the first degree, punishable as provided in chapter 775.

(c) If the damage is \$1,000 or greater or if there is interruption or impairment of a business operation, public communication, transportation, supply of water, gas or power or other public service which costs \$1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in chapter 775.

Section 28. Section 806.10, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.10, F. S., for present text.)

806.10 Preventing or obstructing extinguishment of fire.—

(1) Any person who wilfully and maliciously injures, destroys, removes, or in manner interferes with the use of any vehicles, tools, equipment, water supplies, hydrants, towers, buildings, communication facilities, or any other instruments or facilities used in the detection, reporting, suppression, or extinguishment of fire shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Any person who wilfully or unreasonably interferes with, hinders, or assaults or attempts to interfere with or hinder any fire fighter in the performance of his duty shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 29. Subsection (1) of section 806.111, Florida Statutes, is amended to read:

806.111 Fire bombs.—

(1) Every person who possesses, manufactures or disposes of a fire bomb with intent that such fire bomb be wilfully and maliciously used to set fire to or burn any building or property is guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ chapter 775.

Section 30. Section 810.011, Florida Statutes, is created to read:

810.011 Definitions.—As used in this chapter:

(1) "Structure" means any building of any kind either temporary or permanent which has a roof over it together with the curtilage thereof.

(2) "Conveyance" means any motor vehicle, ship, vessel, railroad car, trailer, aircraft or sleeping car and to enter a conveyance includes taking apart any portion of the conveyance.

(3) An act is committed "In the course of committing" if it occurs in an attempt to commit the offense or in flight after the attempt or commission.

(4) "Posted land" is that land upon which signs are placed not more than five hundred feet apart along, and at each corner of, the boundaries of the land, upon which signs there shall appear prominently, in letters of not less than two inches in height, the words "no trespassing" and in addition thereto shall appear the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside of the boundary line. It shall not be necessary to give notice by poster on any land or place not exceeding five acres on which there is a dwelling house in order to obtain the benefits of the statutes of this state prohibiting trespass.

(5) "Cultivated land" is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation.

(6) "Fenced land" is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, or other wire, or other material, which stands at least three (3) feet in height. For the purpose of this chapter it shall not be necessary to fence any boundary or part of a boundary of any land which shall be formed by water.

(7) Where lands are posted, cultivated or fenced as described herein then said lands for the purpose of this chapter shall be considered as enclosed and posted.

Section 31. Section 810.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.02, F.S., for present text.)

810.02 Burglary.—

(1) Burglary means entering or remaining in a structure or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.

(2) Burglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in chapter 775, if in the course of committing the offense, the offender:

- (a) Makes an assault upon any person; or
- (b) Is armed or arms himself within such structure with explosives or a dangerous weapon.

(3) If the offender does not make an assault or is not armed or does not arm himself with a dangerous weapon or explosive as aforesaid during the course of committing the offense and the structure entered is a dwelling or there is a human being in the structure or conveyance at the time the offender entered or remained in the structure or conveyance, the burglary is a felony of the second degree, punishable as provided in chapter 775. Otherwise, burglary is a felony of the third degree, punishable as provided in chapter 775.

Section 32. Section 810.06, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.06, F.S., for present text.)

810.06 Possession of burglary tools.—Whoever has in his possession any tool, machine, or implement with intent to use the same or allow the same to be used to commit any burglary or trespass shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 33. Section 810.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.07, F.S., for present text.)

810.07 Prima facie evidence of intent.—In a trial on the charge of burglary, proof of the entering of such structure or

conveyance at any time stealthily and without consent of the owner or occupant thereof, shall be prima facie evidence of entering with intent to commit an offense.

Section 34. Section 810.08, Florida Statutes, is created to read:

810.08 Trespass in structure or conveyance.—A person trespasses if he wilfully enters any structure or conveyance of another without being authorized, licensed or invited. An offense under this section is a misdemeanor of the first degree, punishable as provided in chapter 775, if:

(1) The offender is armed or arms himself while in the structure or conveyance; or

(2) There is a human being in the structure or conveyance at the time the offender trespassed, attempted to trespass or was in the structure or conveyance.

Otherwise, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 35. Section 810.09, Florida Statutes, is created to read:

810.09 Trespass on property other than structure or conveyance.—

(1) A person commits an offense if without being authorized, licensed or invited, he wilfully enters upon or remains in any property other than a structure or conveyance as to which notice against entering or remaining is given by:

(a) Actual communication to the defendant; or

(b) Posting, fencing or cultivation as prescribed in section 810.011.

(2) An offense under this subsection is a misdemeanor of the first degree, punishable as provided in chapter 775, if:

(a) The offender defies an order to leave personally communicated to him by the owner of the premises or other authorized person; or

(b) The offender wilfully opens any door, fence or gate or does any other act which exposes animals, crops or other property to waste, destruction or freedom.

Otherwise, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 36. Section 821.071, Florida Statutes, is renumbered and amended to read:

~~821.071~~ 810.10 Posted land; removing notices unlawful; penalty.—

(1) It is unlawful for any person to wilfully remove, destroy, mutilate or commit any act designed to remove, mutilate or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant, lessee, or occupant of legally enclosed or legally posted land pursuant to any law of this state for the purpose of legally enclosing the same.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 37. Section 821.02, Florida Statutes, is renumbered and amended to read:

~~821.02~~ 810.11 Placing signs adjacent to highways; penalty.—

(1) All persons are prohibited from placing, posting or erecting signs upon land or upon trees upon land adjacent to or adjoining all public highways of the state, without the written consent of the owner of such land, or the written consent of the attorney or agent of such owner.

(2) Every person convicted of a violation of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 38. Section 813.011, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 813.011, F.S., for present text.)

811.011 ~~812.11~~ Robbery.—

(1) "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another by force, violence or assault or putting in fear.

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in chapter 775.

(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in chapter 775.

(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree.

(3) An act shall be deemed "in the course of committing the robbery" if it occurs in an attempt to commit robbery or in flight after the attempt or commission.

Section 39. Section 812.011, Florida Statutes, is created to read:

812.011 Definitions.—

(1) "Property" means anything of value, including but not limited to real estate, tangible and intangible personal property, contract rights, evidence of debt, choses-in action and other interest in or claims to wealth, admission or transportation tickets, animals, food and drink, gas, water, electric and other power and telephone service.

(2) "Value" equals fair market value of property;

(3) "Motor vehicle" means automobiles, motorcycles, motor trucks, mobile homes, trailer coaches, house trailers, camper type mobile homes mounted and transported wholly upon the body of a self-propelled vehicle, any type of trailer or vehicle body without independent motive power drawn by or carried upon a self-propelled vehicle, designed for and used either as a means of transporting persons or property over the public streets and highways or for furnishing housing accommodations, or both, and all other vehicles operated over the public highways and streets of this state and propelled by power other than muscular power, but does not include traction engines, road rollers, or vehicles that run on a track.

(4) "Aircraft" means aircraft as defined in section 330.01.

(5) "Boat" means vessel as defined in section 371.021.

(6) "Boat motor" means any motor-driven device used for propelling a boat.

(7) "Public servant" means any public officer, agent, or employee of government, whether elected or appointed, including any executive, legislative or judicial officer, and any person participating as a special master, receiver, auditor, juror, arbitrator, umpire, referee, consultant, hearing examiner, or otherwise, in performing a governmental function; but the term does not include witnesses. Such term shall include a candidate for election to any such office including the time prior to the election, the time after he is elected and the time after he has qualified. It shall include any person appointed to any of the foregoing offices or employments before and after he qualifies.

(8) "Steal or Stolen" means to commit or have committed larceny.

(9) "Stolen property" means property which has been the object of larceny regardless of the fact that the property may previously have come temporarily into the possession of a person rightfully entitled to possession of the property.

Section 40. Section 811.021, Florida Statutes, is renumbered and amended to read:

~~811.021~~ 812.021 Larceny defined; penalties; sufficiency of indictment, information or warrant.—

(1) A person who with intent to unlawfully deprive or defraud the true owner of his real or personal property or of the use and benefit thereof, or to appropriate the same to the use of the taker or of any other person:

(a) Takes from the possession of the true owner, or of any other person; or obtains from such person possession by color or aid of fraudulent or false representations or pretense, or of any false token or writing; or obtains the signature of any person to a written instrument, the false making whereof would be punishable as forgery; or secretes, withholds, or appropriates to his own use, or that of any other than the true owner, any money, personal property, goods and chattels, thing in action, evidence of debt, contract, or property, or article of value of any kind; or

(b) Having in his possession, custody or control, as a broker, bailee, public servant, attorney, agent, employee, clerk, trustee, or officer of any person, association, or corporation, member of copartnership, pool or joint adventure or as a person authorized by agreement, or by competent authority, to hold or take such possession, custody, or control, any money, personal thing or action, goods and chattels, evidence of debt, contract, property, or article of value of any kind, appropriates the same to his own use, or that of any other person other than the true owner or person entitled to the benefit thereof; or

(c) While acting as executor, administrator, committee, guardian, receiver, collector or trustee of any description, appointed by a deed, will, or other instrument, or by an order or judgment of a court or officer, secretes, withholds or otherwise appropriates to his own use, or that of any person other than the true owner, or person entitled thereto, any money, personal property, goods and chattels, thing in action, evidence of debt, contract, property or article of value of any kind, in his possession or custody by virtue of his office, employment or appointment; or

(d) Takes unpurchased merchandise of any mercantile establishment on the premises of such establishment with the intent to convert the same to personal use without paying the purchase price therefor; or

(e) Obtains property of another by threatening to:

1. accuse anyone of a criminal offense; or
2. expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
3. take or withhold action as a public servant; or
4. bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the defendant purports to act; or
5. testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(f) Fails to take reasonable measures to restore property which he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient after he comes into control of such property; shall, upon conviction, be guilty of larceny.

(2) If the property stolen is:

- (a) of the value one hundred dollars or more; ; or ~~is~~,
- (b) as part of a common scheme or design to defraud, property of the aggregate value of two hundred dollars or more is taken in any twelve consecutive month period by an agent, servant or employee from his principal or employer by a series or combination of any of the acts denounced in this section, as part of a common scheme or design to defraud; or
- (c) a will, codicil or other testamentary instrument; or
- (d) a firearm; or
- (e) a motor vehicle; or

(f) any member of the genera *bos* (cattle) or *equus* (horse); or any hybrid of the specified genus; the offender shall be deemed guilty of grand larceny which constitutes a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ chapter 775, unless the offender is a public servant who used his official position to commit the offense or in the course of committing the offense stole public property or property which the duty of his office

required him to receive and hold, in which case the offender shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

(3) If the value of the property stolen is less than one hundred dollars, the offender shall be guilty of Larceny of property not described within subsection (2) is petit larceny which constitutes a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or 775.083~~ chapter 775. Upon a second conviction of petit larceny, the offender shall be guilty of a misdemeanor of the first degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775. Upon a third or subsequent conviction of the offense of petit larceny, the offender shall be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084, chapter 775.~~

(4) Hereafter it shall not be a defense to a prosecution for larceny, or for an attempt, solicitation or for conspiracy to commit the same, or for being accessory thereto, that the purpose for which the owner was induced by color of or aid of fraudulent or false representation or pretense, or of any false token or writing, to part with his property or the possession thereof, was illegal, immoral or unworthy.

(5) It shall be sufficient for any indictment, information, or warrant returned, filed or issued under this section to charge generally that the defendant at the time and in the county specified, did steal the personal or real property, thing in action, evidence of debt or contract or article of value out of which the prosecution arose, describing the same in general terms and alleging generally the ownership and value thereof. It shall not be necessary when alleging the larceny of property over a period of time that the exact date or dates the property was taken be alleged but instead the total period of time may be alleged generally. This section shall not be construed as intending to interfere with the power of the court to require the state to furnish the defendant with a bill of particulars in proper cases and on sufficient showing that cause exists for the same.

(6) Nothing in this section shall be construed as in any way altering, modifying or repealing the following statutes or any part thereof: ~~section 706.10, 811.03, 811.04, 812.10, 812.12, 821.10, 821.22 and 821.23.~~

(6) The failure, neglect, omission or refusal of any public servant to pay over or deliver any money, property, or effects to any official or person authorized or having the right by law to receive the same, for more than thirty days after the same has been collected or received by him, shall be prima facie evidence of the conversion to one's own use, or the secreting with intent to convert to one's own use, or the withholding with the intent to convert to one's own use the said money, property or effects.

Section 41. Section 811.16, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 811.16, Florida Statutes, for present text.)

811.16 812.031 Receiving stolen property.—

(1) Whoever intentionally receives, retains, disposes or aids in concealment of any stolen property of another without consent of the owner or person entitled to possession, knowing that it has been stolen, or under such circumstances as would induce a reasonable man to believe that the property was stolen, commits an offense.

(2) If the property received is:

- (a) property of the value of one hundred dollars or more; or
- (b) a will, codicil or other testamentary instrument; or
- (c) a firearm; or
- (d) a motor vehicle; or
- (e) any member of the genera bos (cattle) or equus (horse); or any hybrid of the specified genus.

the offender shall be deemed guilty of a felony of the third degree, punishable as provided in chapter 775.

(3) If the property received is not described in subsection (2) above, the offender shall be deemed guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

(4) It shall not be necessary on the trial of the crime of receiving stolen property to prove that the person who stole the property has been convicted.

(5) In determining the value of the property received the aggregate value of all stolen property found in possession of the offender shall be used for the purposes of this section.

Section 42. Section 814.04, Florida Statutes, is renumbered and amended to read:

814.04 812.041 Unauthorized temporary use of motor vehicle, aircraft, boat or boat motor.—

(1) Any person who temporarily uses any motor vehicle, aircraft, boat, or boat motor without the authority of the owner or his representative, or who shall knowingly be a party to such unauthorized use, shall, upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

(2) Nothing in this section shall be construed to apply to any case in which the taking of the property of another is with intent to steal the same or in which the taking is under a claim of right or with the presumed consent of the owner or other person having the legal control, care, or custody of the same.

Section 43. Subsection (2) of section 811.165, Florida Statutes, is renumbered and amended to read:

811.165 812.051 Record of purchases and sales required of junk dealers and persons dealing in secondhand goods.—

(2) A failure to keep the records required under this section and for the period of time required shall be a misdemeanor of the first degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 44. Section 799.01, Florida Statutes, is renumbered and amended to read:

~~799.01 826.01~~ Bigamy; punishment.—Whoever, having a husband or wife living, marries another person, ~~or continues to cohabit with such second husband or wife in this state,~~ shall (except in the cases mentioned in ~~section 799.02~~ section 826.02) be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ chapter 775.

Section 45. Section 799.02, Florida Statutes, is renumbered and amended to read:

~~799.02 826.02~~ Exceptions.—The provisions of ~~section 799.01~~ section 826.01 shall not extend to any person who reasonably believes that the prior spouse is dead; whose husband or wife has been continually remaining beyond sea, or to a person whose prior spouse has voluntarily deserted the other him and remained absent for the space of three years continuously, the party marrying again not knowing the other to be living within that time; nor to any person whose bonds of matrimony have been dissolved; or to a person who violates its provisions because a domestic or foreign court has entered an invalid judgment purporting to terminate or annul the prior marriage and the defendant does not know that judgment to be invalid; or to any person who reasonably believes that he is legally eligible to remarry.

Section 46. Section 799.03, Florida Statutes, is renumbered and amended to read:

~~799.03 826.03~~ Knowingly marrying husband or wife of another.—Whoever knowingly marries the husband or wife of another person knowing him or her to be the spouse of another person shall be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ chapter 775.

Section 47. Section 826.04, Florida Statutes, is created to read:

826.04 Incest.—Whoever knowingly marries or has sexual intercourse with a person to whom he is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece commits incest which constitutes a felony of the third degree,

punishable as provided in chapter 775. "Sexual intercourse" is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

Section 48. Section 827.01, Florida Statutes, is created to read:

827.01 Definitions.—As used in this section:

(1) "Child" means any person under the age of eighteen (18) years.

(2) "Placement" means the giving or transferring of possession or custody of a child, by any person to another person, for adoption or with intent or purpose of surrendering the control of the child.

(3) "Torture" means every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused.

Section 49. Section 828.04, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 828.04, F.S., for present text.)

827.03 Aggravated child abuse.—Whoever:

- (1) Commits aggravated battery on a child; or
- (2) Wilfully tortures a child; or
- (3) Maliciously punishes a child; or
- (4) Wilfully and unlawfully cages a child;

shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

Section 50. Section 827.04, Florida Statutes, is created to read:

827.04 Child abuse.—

(1) Whoever wilfully or by culpable negligence deprives a child of or allows a child to be deprived of necessary food, clothing, shelter and medical treatment or who knowingly or by culpable negligence or permits the physical or mental health of the child to be materially endangered and in so doing causes great bodily harm, permanent disability or permanent disfigurement to such child shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Whoever wilfully or by culpable negligence deprives a child of or allows a child to be deprived of necessary food, clothing, shelter and medical treatment or who knowingly or by culpable negligence or permits the physical or mental health of the child to be materially endangered shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 51. Section 828.042, Florida Statutes, is renumbered and amended to read:

~~828.042~~ 827.05 Negligent treatment of children.—Whoever negligently deprives a child of or allows a child to be deprived of necessary food, clothing, or shelter, or medical treatment any person under the age of sixteen years, and whoever negligently and without malice deprives of necessary sustenance or raiment, or negligently and without malice deprives of necessary treatment and attention his child or ward, is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083 chapter 775.

Section 52. Section 856.04, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 856.04, F. S., for present text.)

856.04 Desertion; withholding support.—Any person who deserts or, after notice by the state attorney, fails to provide support which he or she is able to provide to his or her children or spouse which such person knows he or she is legally obligated to support and over which no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 53. Section 837.011, Florida Statutes, is created to read:

837.011 Definitions.—In this chapter, unless a different meaning plainly is required:

(1) "Official proceeding" means a proceeding heard or which may be or is required to be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, master in chancery, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(2) "Oath" includes affirmation or any other form of attestation required or authorized by law by which a person acknowledges that he is bound in conscience or law to testify truthfully in an official proceeding or other official matter.

(3) "Material matter" means any subject, regardless of its admissibility under the rules of evidence which could affect the course or outcome of the proceeding. Whether a matter is material in a given factual situation is a question of law.

Section 54. Section 837.01, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 837.01, F.S., for present text.)

~~837.01~~ 837.012 Perjury not in an official proceeding.—

(1) Whoever makes a false statement, which the maker does not believe to be true, under oath, not in an official proceeding, in regard to any material matter shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

Section 55. Section 837.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 837.02, F.S., for present text.)

837.02 Perjury in official proceedings.—

(1) Whoever makes a false statement, which the maker does not believe to be true, under oath in an official proceeding in regard to any material matter shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

Section 56. Subsection (1) of section 837.021, Florida Statutes, is amended to read:

837.021 Perjury by contradictory statements.—

(1) Whoever, in one or more trials, hearings, investigations, depositions, or affidavits, official proceedings in which the making of statements under oath or affirmation is required or authorized by law, wilfully makes two or more material statements under oath or affirmation, when in fact two or more of the statements contradict each other, is guilty of a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084 chapter 775. The prosecution may proceed in a single count by setting forth the wilful making of inconsistent statements under oath or affirmation pursuant to requirement or authorization of law and alleging in the alternative that one or more of them are false.

Section 57. Section 837.05, Florida Statutes, is created to read:

837.05 False reports to law enforcement authorities.—Whoever knowingly gives false information to any law enforcement officer concerning the alleged commission of any crime is guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 58. Section 837.06, Florida Statutes, is created to read:

837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 59. Section 838.014, Florida Statutes, is created to read:

838.014. Definitions.—For the purposes of this chapter, unless a different meaning plainly is required:

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefited as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he is interested;

(2) "Pecuniary benefit" is benefit in the form of any commission, gift, gratuity, property, commercial interests or any other thing of economic value;

(3) "Harm" means loss, disadvantage or injury to the person affected, including loss, disadvantage or injury to any other person with whose welfare he is interested.

(4) "Public servant" means any public officer, agent, or employee of government, whether elected or appointed, including but not limited to any executive, legislative or judicial officer; any person who holds an office or position in a political party or political party committee, whether elected or appointed; and any person participating as a special master, receiver, auditor, juror, arbitrator, umpire, referee, consultant, hearing examiner, or person acting on behalf of any of these in performing a governmental function; but the term does not include witnesses. Such term shall include a candidate for election or appointment to any such office including any individual who seeks or intends to occupy any such office. It shall include any person appointed to any of the foregoing offices or employments before and after he qualifies.

(5) "Government" includes the state government and any city or county government or any branch, political subdivision or agency of the state, county or city government;

(6) "Corruptly" means done with a wrongful intent and for the purpose of obtaining or compensating or receiving compensation for any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his public duties.

Section 60. Sections 838.015 and 838.016, Florida Statutes, are created to read:

838.015 Bribery.—

(1) "Bribery" means corruptly to give, offer or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept for himself or another, any pecuniary or other benefit with an intent or purpose to influence the performance of any act or omission which the person believes to be or the public servant represents as being within the official discretion of a public servant or in violation of a public duty or in performance of a public duty.

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, or that he had assumed office, or that the matter was properly pending before him or might by law properly be brought before him or that he possessed jurisdiction over the matter, or that his official action was necessary to achieve the person's purpose.

(3) Any person who commits bribery is guilty of a felony in the third degree, punishable as provided in chapter 775.

838.016 Unlawful compensation or reward for past official behavior.—

(1) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past performance of any act or omission which the person believes to have been or the public servant represents as having been either within the official discretion of the public servant or in violation of a public duty, or in performance of a public duty. Provided that nothing herein shall be construed so as to preclude a sheriff, deputy sheriff, city marshall or policeman from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, cor-

ruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or which is represented to him as having been either within the official discretion of the other public servant or in violation of a public duty or in performance of a public duty.

(3) Prosecution under this section shall not require that the exercise of influence or official discretion, or violation of a public duty or performance of a public duty for which a pecuniary or other benefit was given, offered, promised, requested, or solicited, was accomplished or was within the influence, official discretion, or public duty of the public servant whose action or omission was sought to be rewarded or compensated.

(4) Whoever violates the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 61. Section 838.021, Florida Statutes, is created to read:

838.021 Corruption by threat against public servant.—

(1) Whoever unlawfully harms or threatens unlawful harm to any public servant or to any other person with whose welfare he is interested with the intent or purpose:

(a) To influence the performance of any act or omission which the person believes to be or the public servant represents as being within the official discretion of the public servant or in violation of a public duty or in performance of a public duty.

(b) To cause or induce him to use or exert or procure the use or exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to be or the public servant represents as being within the official discretion of the public servant or in violation of a public duty or in performance of a public duty.

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, or that he had assumed office, or that the matter was properly pending before him or might by law properly be brought before him or that he possessed jurisdiction over the matter, or that his official action was necessary to achieve the person's purpose.

(3)(a) Whoever unlawfully harms any public servant or any other person with whose welfare he is interested shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

(b) Whoever threatens unlawful harm to any public servant or to any other person with whose welfare he is interested shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 62. Section 838.031, Florida Statutes, is created to read:

838.031 Official misconduct.—

(1) "Official misconduct" means the commission of one of the following acts by a public servant, with corrupt intent to obtain a benefit for himself or another or to cause unlawful harm to another:

(a) Knowingly refraining or causing another to refrain from performing a duty imposed upon him by law; or

(b) Knowingly falsifying or causing another to falsify any official record or official document; or

(c) Knowingly violating or causing another to violate any statute or lawfully adopted regulation or rule relating to his office.

(2) Official misconduct under this section is a felony of the third degree, punishable as provided in chapter 775.

(3) "Corrupt" means done with knowledge that act is wrongful and with improper motives.

Section 63. Section 838.041, Florida Statutes, is created to read:

838.041 Misuse of confidential information.—Any public servant, who in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, commits any of the following acts:

(a) The acquisition of a pecuniary interest in any property, transaction, or enterprise or gaining of any pecuniary or other benefit which may be affected by such information or official action; or

(b) Speculation or wagering on the basis of such information or action; or

(c) Aiding another to do any of the foregoing; shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 64. Whenever any reference is made in the Florida Statutes to an offense being punishable as provided by a specific section or sections of chapter 775, it shall be changed to read "punishable as provided in chapter 775."

Section 65. Section 776.03, Florida Statutes, is renumbered as section 777.03, Florida Statutes; sections 779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20, and 779.21, Florida Statutes, are renumbered respectively as sections 876.32, 876.33, 876.34, 876.35, 876.36, 876.37, 876.38, 876.39, 876.40, 876.41, 876.42, 876.43, 876.44, 876.45, 876.46, 876.47, 876.48, 876.49, 876.50, 876.51, and 876.52, Florida Statutes; section 806.06, Florida Statutes, is renumbered as section 817.60, Florida Statutes; section 811.022, Florida Statutes, is renumbered as section 901.27, Florida Statutes; sections 811.165 and 811.201, Florida Statutes, are renumbered respectively as sections 812.051 and 812.061, Florida Statutes; section 814.05, Florida Statutes, is renumbered as section 322.274, Florida Statutes; section 814.07, Florida Statutes, is renumbered as section 319.36, Florida Statutes; section 823.03, Florida Statutes, is renumbered as section 806.101, Florida Statutes; section 828.041, Florida Statutes, is renumbered as section 827.07, Florida Statutes; and section 828.201, Florida Statutes, is renumbered as section 827.08, Florida Statutes.

Section 66. Sections 741.22, 775.11, 775.12, 782.01, 782.02, 782.05, 784.06, 800.04, 806.03, 806.04, 806.05, 806.061, 806.07, 806.08, 806.09, 806.11, 806.12, 810.01, 810.03, 810.04, 810.05, 810.051, 811.03, 811.04, 811.163, 811.17, 811.28, 811.29, 811.30, 812.10, 812.12, 814.01, 814.02, 814.03, 814.06, 821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.04, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.17, 821.18, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28, 821.29, 821.30, 821.31, 821.32, 821.33, 821.34, 821.35, 821.37, 821.38, 822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, 822.23, 823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, 823.10, 828.01, 828.06, 828.07, 828.09, 828.10, 828.11, 828.18, 828.19, 828.20, 828.21, 833.03, 833.04, Florida Statutes, 833.05, Florida Statutes, 837.01, 837.03, 837.04, 838.01, 838.011, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, 838.10, 851.01, 851.02, 851.03, and 851.04, Florida Statutes, are repealed.

Section 67. This act shall take effect January 1, 1975.

Amendment 2—Strike all of the title and insert:

A bill to be entitled

An act relating to criminal law; creating section 775.011, Florida Statutes, providing for title and applicability; creating section 775.012, Florida Statutes, providing for general purposes; creating section 775.021, Florida Statutes, providing for rules of construction; amending section 775.08, Florida Statutes, providing for classes and definitions of offenses;

amending section 775.082, Florida Statutes, providing for penalties amending section 775.083, Florida Statutes, relating to fines; amending section 775.084, Florida Statutes, relating to subsequent felony offenses; creating section 775.086, Florida Statutes, relating to extended terms for subsequent misdemeanors; creating section 775.087, Florida Statutes, relating to use or possession of firearms or weapons or aggravated battery in commission of felony; renumbering and amending section 932.465, Florida Statutes, relating to time limitations; renumbering and amending section 776.011, Florida Statutes, relating to principal in first degree; renumbering and amending section 776.04, Florida Statutes, relating to attempts, solicitation and conspiracy; creating sections 776.012, 776.021, 776.031, 776.041, 776.05, 775.051, 776.06, 776.07, and 776.08, Florida Statutes, relating to justifiable use of force; amending section 782.04, Florida Statutes, defining the crimes of and providing the penalties for murder; amending section 782.07, Florida Statutes, defining the crime of and providing the penalty for manslaughter; creating section 782.071, Florida Statutes, defining the crime of and penalty for vehicular homicide; renumbering and amending section 784.02, Florida Statutes, defining the crime of and providing the penalty for assault; renumbering and amending section 784.04, Florida Statutes, defining the crime of and providing the penalty for aggravated assault; amending section 784.03, Florida Statutes, defining the crime of and providing the penalty for battery; amending section 784.045, Florida Statutes, defining the crime of and providing the penalty for aggravated battery; amending section 784.05, Florida Statutes, defining the crime of and providing the penalty for culpable negligence; renumbering and amending section 805.02, Florida Statutes, defining the crime of and providing the penalty for kidnapping; renumbering and amending section 805.01, Florida Statutes, defining the crime of and providing the penalty for false imprisonment; creating section 787.03, Florida Statutes, defining the crime of and providing the penalty for interference with custody; renumbering and amending section 805.03, Florida Statutes, defining the crime of and providing the penalty for removing children from state; amending section 806.01, Florida Statutes, defining the crimes of and providing the penalties for arson; amending section 806.02, Florida Statutes, defining the crime of and providing the penalties for criminal mischief; amending section 806.10, Florida Statutes, defining the crime of and providing the penalty for obstructing extinguishment of fire; amending subsection (1) of section 806.111, Florida Statutes, defining the crime of and providing the penalty for possession of fire bombs; creating section 810.011, Florida Statutes, providing for definitions; amending section 810.02, Florida Statutes, defining the crime of and providing the penalties for burglary; amending section 810.06, Florida Statutes, defining the crime of and providing the penalty for possession of burglary tools; amending section 810.07, Florida Statutes, relating to evidence of intent; creating section 810.08, Florida Statutes, defining the crime of and providing the penalty for trespass in structure or conveyance; creating section 810.09, Florida Statutes, defining the crime of and providing the penalty for trespass on property other than structure or conveyance; renumbering and amending section 821.071, Florida Statutes, defining the crime of and providing the penalty for unlawfully removing notices; renumbering and amending section 821.02, Florida Statutes, defining the crime of and providing the penalty for placing signs adjacent to highway; renumbering and amending section 813.011, Florida Statutes, defining the crimes of and providing the penalties for robbery; creating section 812.011, Florida Statutes, providing for definitions; renumbering and amending section 811.021, Florida Statutes, defining the crime of and providing the penalty for larceny; renumbering and amending section 811.16, Florida Statutes, defining the crime of and providing the penalty for receiving stolen property; renumbering and amending section 814.04, Florida Statutes, defining the crime of and providing the penalty for unauthorized use of motor vehicle, etc.; renumbering and amending subsection (2) of section 811.165, Florida Statutes, relating to records of purchases and sales; renumbering and amending section 799.01 and 799.02, Florida Statutes, defining the crime of and providing the penalty for bigamy; renumbering and amending section 799.03, Florida Statutes, defining the crime of and providing the penalty for knowingly marrying the spouse of another; creating section 826.04, Florida Statutes, defining the crime of and providing the penalty for incest; creating section 827.01, Florida Statutes, providing for definitions; renumbering and amending section 828.04, Florida Statutes, defining the crime of and providing

the penalty for aggravated child abuse; creating section 827.04, Florida Statutes, defining the crime of and providing the penalty for child abuse; renumbering and amending section 828.042, Florida Statutes, defining the crime of and providing the penalty for negligent treatment of children; creating section 837.011, Florida Statutes, providing for definitions; renumbering and amending section 837.01, Florida Statutes, defining the crime of and providing the penalty for perjury not in an official proceeding; amending section 837.02, Florida Statutes, defining the crime of and providing the penalty for perjury in official proceedings; amending subsection (1) of section 837.021, Florida Statutes, defining the crime of and providing the penalty for perjury by contradictory statements; creating section 837.05, Florida Statutes, defining the crime of and providing the penalty for making false reports to law enforcement authorities; creating section 837.06, Florida Statutes, defining the crime of and providing the penalty for false official statements; creating section 838.014, Florida Statutes, providing for definitions; creating section 838.015, Florida Statutes, defining the crime of and providing the penalty for bribery; creating section 838.016, Florida Statutes, making unlawful certain compensation or rewards for past official behavior and providing penalty; creating section 838.021, Florida Statutes, defining the crime of and providing the penalty for corruption by threat against public servant; creating section 838.031, Florida Statutes, defining the crime of and providing the penalty for official misconduct; creating section 838.041, Florida Statutes, defining the crime of and providing the penalty for misuse of confidential information; providing that reference to punishable as provided in specific section of chapter 775 shall be changed to punishable as provided in chapter 775; amending section 856.04, Florida Statutes, to provide that desertion under certain circumstances is a third degree felony; renumbering section 776.03, Florida Statutes, as section 777.03, Florida Statutes; renumbering sections 779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20 and 779.21, Florida Statutes, as sections 876.32, 876.33, 876.34, 876.35, 876.36, 876.37, 876.38, 876.39, 876.40, 876.41, 876.42, 876.43, 876.44, 876.45, 876.46, 876.47, 876.48, 876.49, 876.50, 876.51 and 876.52, Florida Statutes, respectively; renumbering section 806.06, Florida Statutes, as section 817.60, Florida Statutes; renumbering section 811.022, Florida Statutes, as section 901.27, Florida Statutes; renumbering sections 811.165 and 811.201, Florida Statutes, as sections 812.051 and 812.201, Florida Statutes, respectively; renumbering section 814.05, Florida Statutes, as section 322.274, Florida Statutes; renumbering section 814.07, Florida Statutes, as section 319.36, Florida Statutes; renumbering section 823.03, Florida Statutes, as section 806.101, Florida Statutes; renumbering section 828.041, Florida Statutes, as section 827.07, Florida Statutes; and renumbering section 828.201, Florida Statutes, as section 827.08, Florida Statutes; repealing section 741.22, Florida Statutes, relating to incest; repealing section 775.11, Florida Statutes, relating to prosecution for second offenses; repealing section 775.12, Florida Statutes, relating to limitation of repeal; repealing sections 782.01, 782.02, and 782.05, Florida Statutes, relating to homicide; repealing section 784.06, Florida Statutes, relating to assault; repealing section 800.04, Florida Statutes, relating to crimes against nature; repealing sections 806.03, 806.04, 806.05, 806.06, 806.07, 806.08, 806.09, 806.11, and 806.12, Florida Statutes, relating to arson; repealing sections 810.01, 810.03, 810.04, 810.05, 810.051, Florida Statutes, relating to burglary; repealing sections 811.03, 811.04, 811.163, 811.17, 811.28, 811.29, and 811.30, Florida Statutes, relating to larceny; repealing sections 812.10 and 812.12, Florida Statutes, relating to embezzlement; repealing sections 814.01, 814.02, 814.03, and 814.06, Florida Statutes, relating to auto theft; repealing sections 821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.07, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.13, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28, 821.29, 821.30, 821.31, 821.32, 821.32, 821.33, 821.34, 821.35, 821.37, and 821.38, Florida Statutes, relating to trespass and injury to real property; repealing sections 822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, and 822.23, Florida Statutes, relating to malicious injury to buildings; repealing sections 823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, and 823.10, Florida Statutes, relating to nuisances and doors of certain buildings; repealing sections 828.01, 828.06, 828.07,

828.09, 828.10, 828.11, 828.18, 828.19, 828.20, and 828.21, Florida Statutes, relating to cruelty to animals and children; repealing sections 833.03 and 833.04, Florida Statutes, and section 833.05, Florida Statutes, relating to conspiracy; repealing sections 837.01, 837.03, and 837.04, Florida Statutes, relating to perjury; repealing sections 838.01, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, and 838.10, Florida Statutes, relating to bribery; repealing sections 851.01, 851.02, 851.03, and 851.04, Florida Statutes, relating to bucket shops; providing an effective date.

On motions by Senator Pettigrew the Senate refused to recede from Senate Amendments 1 and 2 to CS for HB 2179 and acceded to the request for a conference committee.

Conference Committee on CS for HB 2179

The President announced the appointment of Senators Johnson, McClain, Gordon, Johnston and Pettigrew as conferees on the part of the Senate on CS for HB 2179.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has adopted the Conference Committee Report as an entirety and passed SB 277 as amended by the Conference Committee Report.

Allen Morris, Clerk

The bill was ordered engrossed.

The Honorable Mallory E. Horne, President May 27, 1974

I am directed to inform the Senate that the House of Representatives returns SB 499 as requested.

Allen Morris, Clerk

By the Committee on Consumer Affairs—

SB 499—A bill to be entitled An act relating to condominiums and cooperatives; creating Section 711.64, Florida Statutes, providing requirements for completion of phase projects; providing an effective date.

On motion by Senator Zinkil, the Senate reconsidered the vote by which SB 499 as amended passed on May 1.

On motion by Senator Zinkil the Senate reconsidered the vote by which SB 499 as amended was read the third time.

Senators Firestone, Horne, Zinkil and Winn offered the following amendment which was moved by Senator Zinkil:

Amendment 1—On page 1, line 12, strike everything after the enacting clause and insert: Section 1. Section 711.631, Florida Statutes, is created to read: The legislature finds and recognizes the types of leases affected by the provisions of this section are often entered into well before unit owners have any real voice in the association or the management of the condominium. This fact has encouraged the contracting for leases covering such long periods of time and at such terms that the leasing of such facilities at any time before the unit owners have control of the association is questionable and the direct leasing of such facilities by a developer to an association under his control is found to merit regulation. In light of this finding, every lease of recreational facilities or other commonly used areas for a period in excess of ten (10) years between a developer and an association which is in effect on the effective date of this act and which is a mandatory condition of ownership is deemed to include a provision for the purchase of the facilities by the association as provided in §711.63(7). Provided, however, nothing herein shall affect leasehold interests wherein the lessor is the Federal Government, the State of Florida, or their agencies or political subdivisions.

On motion by Senator Trask, further consideration of SB 499 with pending amendment was deferred.

SPECIAL AND CONTINUING ORDER

CS for HB 3169—A bill to be entitled An act relating to alcoholic beverage licenses; amending subsection (2)(a) of

§561.20, Florida Statutes, providing that food sales in restaurants need not be simultaneous with alcoholic beverage sales, further providing that certain special licenses issued prior to chapter 57-773, Laws of Florida, shall not include package sales as part of a gross income factor; creating paragraph (c) of subsection (2) of §561.20, Florida Statutes, providing for the issuance of a special license to bona fide bowling alleys; amending subsection (7) of §561.20, Florida Statutes, providing for the issuance of special club licenses to bona fide tennis clubs; providing an effective date.

—was taken up with the following pending amendment by Senator Brantley:

Amendment 1—On page 2, line 9, strike “thirty (30)” and insert: fifty one (51)

On motion by Senator Brantley, the Senate reconsidered the vote by which CS for HB 3169 was read the third time. The motion was adopted by the following vote:

Yeas—23

Brantley	Graham	Pettigrew	Trask
Childers	Gruber	Plante	Ware
de la Parte	Henderson	Poston	Wilson
Firestone	Johnson	Scarborough	Winn
Gallen	Lewis	Smathers	Zinkil
Glisson	Peterson	Sykes	

Nays—6

Deeb	Sims	Vogt	Weber
Lane (31st)	Stolzenburg		

The question recurred on Amendment 1 and the amendment was adopted.

On motion by Senator Brantley, CS for HB 3169 as further amended was read by title, passed and certified to the House. The vote was:

Yeas—22

Brantley	Gruber	Plante	Vogt
de la Parte	Henderson	Poston	Ware
Firestone	Johnson	Scarborough	Wilson
Gallen	Lane (23rd)	Smathers	Winn
Gillespie	McClain	Stolzenburg	
Graham	Pettigrew	Sykes	

Nays—9

Childers	Lewis	Trask	Zinkil
Glisson	Peterson	Weber	
Lane (31st)	Sims		

By unanimous consent, Senators Myers and Horne were recorded as voting yea; Senator Weber changed his vote from nay to yea.

CS for CS for HB 3096—A bill to be entitled An act relating to workmen's compensation; amending §440.02(1)(c), (2), (13), (15) and (16), Florida Statutes, 1973, relating to definitions; extending coverage to certain agricultural employees and personnel associated with athletic events; providing that the words “child,” “grandchild,” “brother,” and “sister” include certain persons up to twenty-two (22) years of age; adding a subsection (3) to §440.04, Florida Statutes, 1973, allowing an officer of a corporation who has elected exemption from the workmen's compensation act to revoke such exemption; amending §440.05, Florida Statutes, 1973, requiring corporate officers electing an exemption or revoking an exemption from the chapter to give notice to the division of labor of the department of commerce; creating §440.075, Florida Statutes, providing for application of common law in suits involving exempt corporate officers; amending §440.09(1) and (2), Florida Statutes, 1973, relating to the payment of workmen's compensation for accidents which occur elsewhere than in this state; providing that compensation will not be paid when the employee is already covered by certain federal compensation acts; amending §440.10(1), Florida Statutes, 1973, providing that a subcontractor is not responsible

for payment of compensation to employees of another subcontractor; providing that the liability provisions of §440.11, Florida Statutes, do not protect a subcontractor other than the employer of an injured employee; amending §440.12(2) and (3), Florida Statutes, 1973, providing a formula for relating maximum compensation rate to a state average weekly wage; amending present subsection (3) and adding a new subsection (3) to §440.14, Florida Statutes, 1973, providing alternative method of computation of compensation for seasonal workers; amending §440.15(1) and (2), Florida Statutes, 1973, increasing compensation for certain employees; providing additional temporary total disability compensation for certain serious injuries; amending §440.151(1)(a) and (2), Florida Statutes, 1973, expanding the type of diseases covered by the act; amending §440.16(2), Florida Statutes, 1973, increasing dollar limit on compensation for a death; reducing compensation to surviving spouse without children; providing coverage for surviving children where surviving spouse dies or remarries; increasing compensation to children when there is no widow or widower; adding subsection (5) to §440.18, Florida Statutes, 1973, requiring certain employers to give notification to their insurance carriers in case of accident; providing a civil penalty; amending §440.20(5), Florida Statutes, 1973, providing that the ten percent penalty for late payments may be assessed against the insurer or employer; amending §440.24(4), Florida Statutes, 1973, permitting judges of industrial claims to dismiss certain claims or payments for noncompliance; amending §440.25(3)(a), Florida Statutes, 1973, permitting employers to require reasonable medical examinations of employees; providing for free copies of certain medical reports to an employee or his attorney; adding subsection (3) to §440.29, Florida Statutes, 1973, providing rules of procedure for judges of industrial claims and the industrial relations commission; amending §440.30, Florida Statutes, 1973, providing for deposition of parties and payment of fees; amending §440.39(3)(a), Florida Statutes, 1973, providing for recovery for the employer and the insurance carrier from a judgment obtained by an employee against a third party in certain cases; amending §440.44(8), Florida Statutes, 1973, relating to the designation of an advisory council to aid the division; amending §440.45(1), (2) and (3), Florida Statutes, 1973, removing restriction on the number of judges of industrial claims and providing at least one (1) judge for each judicial circuit in the state; providing for review of judges by the judicial nominating commission; providing for report of a vacancy to the division; increasing the salary of each full-time industrial claims judge; amending §440.49(4)(b), (c), (d), (e), (f), and (g), Florida Statutes, 1973, defining “permanent physical impairment,” “merger,” and “excess permanent compensation”; providing for reimbursement from the special disability trust fund in permanent disability cases; providing for reimbursement in death cases; providing for reimbursement of certain temporary disability compensation and medical benefits; requiring a minimum reimbursement of three thousand dollars (\$3,000) and employer's prior knowledge of the employee's preexisting physical condition; providing for apportionment credit; establishing a procedure for filing and determining a claim for reimbursement; amending §440.50(1)(a), Florida Statutes, 1973, providing for payments under §440.15(1)(e), Florida Statutes, from the workmen's compensation administration trust fund; amending §440.51(1)(b), Florida Statutes, 1973, allowing insurance companies to elect to make payments under §440.15(1)(e), Florida Statutes; repealing §440.151(6), Florida Statutes, 1973, relating to disability from certain dust diseases; providing an effective date.

—was taken up with the following pending amendment which was adopted:

Amendment 8—On page 6, line 22, strike “to some extent” and after the word “or” insert: substantially

Senator McClain moved the following amendments which were adopted:

Amendment 9—On page 9, line 14, after the phrase “to his employees”: insert: , or any physician or surgeon providing medical services under the provisions of section 440.13,

Amendment 10—On page 21, lines 10—29; page 22, lines 1—17, strike all of Section 20 and insert: Section 20. Subsections (1), (2), (4), and (5) of section 440.45, Florida Statutes, are amended to read:

440.45 Judges of industrial claims; delegation of authority.—

(1) The division with the approval of the governor shall appoint as many full-time judges of industrial claims as may be necessary to effectually perform the duties prescribed for them under this chapter and the rules and regulations promulgated by the division pursuant to this chapter. However, there shall be at least one (1) judge of industrial claims for each judicial circuit in the state. the number of judges of industrial claims shall not exceed twenty-five. No person shall be appointed as a full-time judge of industrial claims who has not had three years experience in the practice of law in this state; and no judge of industrial claims during his term of office shall actively engage in the private practice of law. The governor division may appoint any former judge of industrial claims to serve as a judge of industrial claims pro hac vice to complete the proceedings on any claim with respect to which he had heard testimony and which remained pending at the time of the expiration of his term of office; provided that no former judge of industrial claims shall be appointed to serve as a judge of industrial claims pro hac vice for a period to exceed sixty successive days.

(2) Each full-time judge of industrial claims shall be appointed for a term of four (4) years, but during his term of office may be removed by the governor for cause. Prior to the expiration of the term of office of the judge of industrial claims, the conduct of said judge shall be reviewed by the judicial nominating commission, which commission shall determine whether a judge of industrial claims shall be retained in office. A report of the decision shall be furnished to the governor no later than six (6) months prior to the expiration of the term of the judge of industrial claims. If the judicial nominating commission votes not to retain the judge of industrial claims, he shall not be reappointed but shall remain in office until his successor is appointed and qualified. If the judicial nominating commission votes to retain the judge of industrial claims in office, then the governor shall reappoint the judge of industrial claims for a term of four (4) years.

(4) The governor division may appoint designate any attorney who has three (3) years experience in the practice of law in this state employed by it to serve as a judge of industrial claims pro hac vice in the absence or disqualification of any full-time judge of industrial claims or to serve upon a temporary basis as an additional judge of industrial claims in any area of the state in which it is determined by the governor determines that a need exists therefor, provided that no attorney so appointed by the governor shall serve for a period to exceed sixty successive days but an attorney so designated shall not be paid any additional compensation for services performed as a judge of industrial claims.

(5) The division may delegate to the judges of industrial claims and to its attorneys, examiners, safety representatives, field agents, inspectors, and other legal representatives such powers and authority as it may deem necessary in the administration of this chapter.

Senator Poston moved the following amendment:

Amendment 11—On page 9, lines 24—27, add a "period" after the word "work" on line 24 and strike all of lines 25 through 27.

Amendment 11 failed by the following vote:

Yeas—12

Brantley	Lewis	Poston	Weber
Deeb	Peterson	Stolzenburg	Williams
Lane (31st)	Plante	Ware	Wilson

Nays—17

Childers	Glisson	McClain	Vogt
de la Parte	Gruber	Scarborough	Winn
Firestone	Johnson	Smathers	
Gallen	Johnston	Sykes	
Gillespie	Lane (23rd)	Trask	

Senator Lane (23rd) moved the following amendment which was adopted:

Amendment 12—On page 16, line 15, strike "five (5)" and insert: ten (10)

Senator Lewis moved the following amendment which failed:

Amendment 13—On page 13, lines 13—14, strike "four hundred dollars (\$400)" and insert: two hundred dollars (\$200)

Senator Plante moved the following amendment which was adopted:

Amendment 14—On page 18, lines 8—11 strike "All medical reports obtained by the carrier or employer under this section shall be furnished free of charge to the employee or his attorney on demand."

Senator Lane (31st) moved the following amendment which was adopted:

Amendment 15—On page 17, line 29, strike "of his choice" and insert: of the employers choice

Senator Weber moved the following amendment:

Amendment 16—On page 10, line 11, strike "an amount \$90 per week which is:" and insert: \$98 per week

Amendment 16 failed by the following vote:

Yeas—11

Deeb	Lane (23rd)	Sims	Ware
Henderson	Lewis	Stolzenburg	Weber
Lane (31st)	Peterson	Trask	

Nays—19

de la Parte	Gordon	Myers	Vogt
Firestone	Gruber	Pettigrew	Wilson
Gallen	Johnson	Poston	Winn
Gillespie	Johnston	Scarborough	Zinkil
Glisson	McClain	Sykes	

By unanimous consent Senator Smathers was recorded as voting nay.

Senator Ware moved the following amendment which was adopted:

Amendment 17—On page 10, line 25, after the period insert: The average weekly wage determined by the department shall be reported annually to the legislature.

Senator Plante moved the following amendment which failed:

Amendment 18—On page 18, lines 25—27, strike "the institution of a claim if the claimant is represented by an attorney or after the filing of the claim or pending the institution or hearing of a claim;" and insert: or pending the institution or hearing of a claim,

Senator Trask moved that the Senate reconsider the vote by which Amendment 11 failed. The motion was adopted by the following vote:

Yeas—16

Deeb	Lane (23rd)	Saylor	Vogt
Gordon	Peterson	Sims	Ware
Gruber	Plante	Stolzenburg	Weber
Lane (31st)	Poston	Trask	Wilson

Nays—15

Brantley	Gillespie	Lewis	Sykes
de la Parte	Glisson	McClain	Winn
Firestone	Johnson	Pettigrew	Zinkil
Gallen	Johnston	Scarborough	

The question recurred on the adoption of Amendment 11 and the amendment failed. The vote was:

Yeas—15

Deeb	Lane (23rd)	Saylor	Vogt
Gordon	Peterson	Sims	Weber
Gruber	Plante	Stolzenburg	Wilson
Lane (31st)	Poston	Trask	

Nays—16

Brantley	Gillespie	Lewis	Sykes
de la Parte	Glisson	McClain	Ware
Firestone	Johnson	Pettigrew	Winn
Gallen	Johnston	Scarborough	Zinkil

By unanimous consent Senator Myers was recorded as voting nay.

Senator Deeb moved the following amendment which failed:

Amendment 19—On page 9, line 28, insert: *If an injured worker recovers in tort under this section his weekly benefit amounts shall be reduced by an amount equal to his net recovery, provided that such reduction shall not exceed the total amount he would have received in benefits.*

On motion by Senator Scarborough, by two-thirds vote CS for CS for HB 3096 as further amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—30

Brantley	Gruber	Peterson	Vogt
Childers	Henderson	Pettigrew	Ware
Deeb	Johnson	Plante	Weber
de la Parte	Johnston	Poston	Wilson
Firestone	Lane (31st)	Sayler	Winn
Gillespie	Lane (23rd)	Scarborough	Zinkil
Glisson	Lewis	Sykes	
Gordon	McClain	Trask	

Nays—3

Gallen	Sims	Stolzenburg
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By unanimous consent Senators Graham, Horne and Myers were recorded as voting yea.

SB 889—A bill to be entitled An act relating to bonds and other obligations; allowing the state board of administration to authorize a rate of interest for certain bonds and other obligations in excess of the maximum rate set by law; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Plante and failed:

Amendment 1—On page 1, line 20, strike the period and insert: ; provided in such instances, the state may require state administration of the issue at the cost of the issuing agency.

Amendment 2—On page 1, line 8 in title, after the “;” insert: providing for state administration of the issue;

On motion by Senator Graham, by two-thirds vote SB 889 was read the third time by title, passed and certified to the House. The vote was:

Yeas—31

Childers	Graham	Peterson	Trask
Deeb	Gruber	Pettigrew	Vogt
de la Parte	Henderson	Plante	Ware
Firestone	Johnson	Poston	Weber
Gallen	Johnston	Sayler	Wilson
Gillespie	Lane (23rd)	Sims	Winn
Glisson	Lewis	Stolzenburg	Zinkil
Gordon	McClain	Sykes	

Nays—None

By unanimous consent Senators Myers, Horne and Smathers were recorded as voting yea.

SB 880 was taken up, together with:

By the Committee on Commerce—

CS for SB 880—A bill to be entitled An act relating to petroleum products; creating §526.151, Florida Statutes, restricting the number of retail service stations operated by producers, refiners or any subsidiary of a producer or refiner of petroleum products; requiring uniform treatment of stations

supplied with respect to equipment rental charges; providing certain exemptions; providing for injunctions; providing an effective date.

—which was read the first time by title and SB 880 was laid on the table.

On motion by Senator Peterson, by two-thirds vote CS for SB 880 was read the second time by title.

Senator Henderson moved the following amendments which were adopted:

Amendment 1—On page 1, line 21, strike “or without”

Amendment 2—On page 1, line 29, strike all of subsection (3) and insert: (3) Provided, however, this act shall not apply to any service station operated by a producer or refiner of petroleum products who purchases or obtains more than 90% of the unrefined petroleum products to be so refined from another producer or refiner of petroleum products.

Senator Plante moved the following amendment which was adopted:

Amendment 3—On page 1, strike lines 23 and 24 and insert: selling its petroleum products, under its own brand or secondary brand.

The President presiding.

Senator Plante moved the following amendment which failed:

Amendment 4—On page 2, line 8, strike “October 1, 1974” and insert: January 1, 1975

The vote was:

Yeas—8

Mr. President	Lane (31st)	Sayler	Smathers
Gordon	Plante	Sims	Ware

Nays—18

Childers	Henderson	Peterson	Wilson
Firestone	Johnson	Poston	Winn
Gallen	Lane (23rd)	Stolzenburg	Zinkil
Graham	Lewis	Sykes	
Gruber	McClain	Vogt	

By unanimous consent Senator Myers was recorded as voting Nay.

On motion by Senator Peterson, by two-thirds vote CS for SB 880 as amended was read the third time by title, passed and ordered engrossed. The vote was:

Yeas—21

Childers	Gordon	Poston	Wilson
Deeb	Gruber	Scarborough	Winn
Firestone	Henderson	Smathers	Zinkil
Gallen	Johnson	Sykes	
Gillespie	Peterson	Trask	
Glisson	Pettigrew	Vogt	

Nays—12

Mr. President	Lane (23rd)	Plante	Stolzenburg
Graham	Lewis	Sayler	Ware
Lane (31st)	McClain	Sims	Weber

By unanimous consent Senators Brantley and Johnston were recorded as voting yea.

SB 633 was taken up and on motion by Senator Childers—

HB 3318—A bill to be entitled An act relating to gifts to minors; adding subsection (17) to §710.02, Florida Statutes, 1973; defining “credit union”; amending §§710.03(1)(c), 710.04(2), 710.05(7), and 710.07, all Florida Statutes, 1973; including credit unions as authorized financial institutions under the Florida Gifts to Minors Act; providing an effective date.

—a companion measure was substituted therefor and read the second time by title. On motion by Senator Childers, by two-thirds vote HB 3318 was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Gruber	Plante	Vogt
Childers	Henderson	Poston	Ware
de la Parte	Johnson	Sayler	Weber
Firestone	Lane (31st)	Scarborough	Wilson
Gallen	Lane (23rd)	Sims	Winn
Gillespie	Lewis	Smathers	Zinkil
Glisson	McClain	Stolzenburg	
Gordon	Peterson	Sykes	
Graham	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Brantley and Johnston were recorded as voting yea.

SB 633 was laid on the table.

SB 877 was taken up, together with:

By the Committee on Commerce—

CS for SB 877—A bill to be entitled An act relating to barbers' assistants; amending section 476.031, Florida Statutes, to provide that barbers' assistants may be issued a certificate as a barbers' assistant after meeting certain requirements; providing an effective date.

—which was read the first time by title and SB 877 was laid on the table.

On motions by Senator Childers, by two-thirds vote CS for SB 877 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Gruber	Plante	Vogt
Childers	Henderson	Poston	Ware
de la Parte	Johnson	Sayler	Weber
Firestone	Lane (31st)	Scarborough	Wilson
Gallen	Lane (23rd)	Sims	Winn
Gillespie	Lewis	Smathers	Zinkil
Glisson	McClain	Stolzenburg	
Gordon	Peterson	Sykes	
Graham	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Brantley, Myers and Johnston were recorded as voting yea.

HB 3777—A bill to be entitled An act relating to elections; revising various subsections of the campaign financing chapter of the election code; amending §§106.011(1)(b), (2), (3)(a), (9), 106.021(4), 106.03(1), 106.04(2), (3), 106.07(1), (2), (3), (5), 106.08(1)(b), (c), (e), (2), 106.10(1), (3), 106.15(1), 106.24(3), 106.25(1), (4), 106.26(12), 106.27(1)(a), (b), 106.29(1) all Florida Statutes 1973; creating §106.11(4), F.S., repealing §106.07(4)(a), F.S., 1973, which requires that the amount of funds on deposit at the beginning of the reporting period be included in campaign contributions reports; conforming statutory language to legislative intent; providing an effective date.

—was read the second time by title.

The Committee on Judiciary offered the following amendment which was moved by Senator Scarborough and adopted:

Amendment 1—On page 4, strike all of lines 5, 6, and 7 and insert: Section 4. Subsections (1), (2) and (3) of §106.04, F.S., 1973, are amended to read:

106.04 Committees of continuous existence.—

(1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization,

association, or other such entity which is involved in making contributions to candidates must meet the following criteria:

(a) It shall have been in continuous existence for a period of at least two years prior to filing an application with the division of elections pursuant to subsection (2); *provided, however, the division at its discretion may waive the requirement of at least two years prior existence upon a showing of reasonable expectation by any such applicant that it is a group, organization, association, or other such entity of a continuous nature and provided, further, the division may disqualify for cause any group, organization, association, or other such entity within two years of such qualification under this part of this subsection;*

(b) It must be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(c) At least 25 percent of the income of such organization must be derived from dues *(or) assessments payable on a regular basis by its membership *(pursuant to) provisions contained in the charter or bylaws.

Senators Pettigrew and Horne offered the following amendments which were moved by Senator Pettigrew and adopted:

Amendment 2—On page 15, after line 3, insert:

106.251 Reports of alleged violations to department of legal affairs; investigations; disposition of findings.—

(1) When the incumbent secretary of state is a candidate for elective office, all reports required under this chapter for that elective office shall be filed with the division of elections, which shall retain a copy and forward the original to the department of legal affairs. The department of legal affairs shall exercise all duties of audit and investigation otherwise conferred by law upon the division of elections or the department of state.

(2) When a complaint alleges a violation in a campaign in which the incumbent secretary of state is a candidate for elective office, such complaint shall be filed with the department of legal affairs, which shall have the authority, exclusive of the division of elections and department of state, to investigate the allegations and report its findings to the elections commission as provided in subsection 106.25(3). In order to carry out the responsibilities of this section the attorney general shall have all the powers of the division of elections as provided in §106.23 with respect to such candidate for such office.

(3) When the incumbent secretary of state is a candidate for elective office, the department of legal affairs, exclusive of the department of state and division of elections, shall have the power to convene the elections commission under §106.25(2), when in its judgment a violation of this chapter has occurred in the course of the campaign for that elective office.

(4) In the event the incumbent attorney general and the incumbent secretary of state are candidates for the same elective office, then all the powers and duties vested in the department of legal affairs under this section shall be vested in the elections commission. The department of administration shall provide funding from emergency or deficiency funds to the elections commission for the purposes of carrying out the provisions of this subsection.

Amendment 3—On page 13, lines 15—19, strike "If the complaint alleges violations in a campaign in which the incumbent secretary of state is a candidate, the division of elections shall investigate the allegations and report its findings to the elections commission as provided in subsection (3)."

Amendment 4—On page 15, after line 16, insert: (13) The commission may prescribe suitable rules and regulations to carry out the provisions of this chapter. Such rules shall be prescribed pursuant to chapter 120.

Amendment 5—On page 11, after line 11, insert: (h) The limits provided in this section shall not apply to candidacy for the House of Representatives or the Senate of the United States so long as federal law provides campaign expenditure limits.

Amendment 6—In title, line 12, after "§106.11(4), F. S." insert: creating §106.251, F.S.; providing certain election duties

to department of legal affairs when incumbent secretary of state is candidate for elective office; providing certain powers and duties for elections commission when incumbent secretary of state and incumbent attorney are candidates for same elective office; creating §106.26(13), F.S.;

Senator Gordon moved the following amendments which were adopted:

Amendment 7—On page 2, line 4, after the word "state." insert: However, for the purposes of this chapter, this definition shall not include those candidates for county executive committees of political parties.

Amendment 8—On page 17, between lines 7 and 8, insert: Section 16. Paragraph (a) of subsection (4) of section 106.04, Florida Statutes, is amended to read:

106.04 Committees of continuous existence.—

(4) Each committee of continuous existence shall file an annual report with the division of elections between June 15 and July 30 of each year. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). In addition to such annual report, each committee shall file regular reports with the division of elections at the same times that reports are required of candidates by §106.07(1). A duplicate copy of each report shall be filed with the clerk of the circuit court in the county in which the committee maintains its books and records. Reports shall be on forms provided by the division and shall contain the following information:

(a) The full name, residence, mailing address, and occupation of each person who has made one or more contributions to the committee during the reporting period, together with the amounts and dates of such contributions. *However, if the contribution is less than one hundred dollars (\$100) the occupation of the contributor need not be listed, and only the name and mailing address is necessary.*

Section 17. Paragraph (b) of subsection (4) of section 106.07, Florida Statutes, 1973, is amended to read:

106.07 Reports; certification and filing.—

(4) Each report required by this section shall contain the following information:

(b) The full name, residence, if any, mailing address, occupation, and principal place of business, if any, of each person who has made one or more contributions to or for such committee or candidate within the reporting period, together with the amount and date of such contributions. *However, if the contribution is less than one hundred dollars (\$100) the occupation and principal place of business of the contributor need not be listed, and only the name, residence, if any, and mailing address is necessary.*

(Renumber subsequent section.)

Amendment 9—In title, line 17, after the word "intent;" insert: exempting candidates for county executive committees from the definition of candidate for the purposes of chapter 106;

Amendment 10—In title, line 17, after the word "intent;" insert: amending §§106.04(4)(a) and 106.07(4)(b), Florida Statutes, to provide that occupational and residential information be included in campaign reports in certain instances;

On motion by Senator Gillespie, by two-thirds vote HB 3777 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Gillespie	Johnston	Pettigrew
Brantley	Glisson	Lane (31st)	Plante
Childers	Gordon	Lane (23rd)	Poston
de la Parte	Gruber	Lewis	Sayler
Firestone	Henderson	McClain	Scarborough
Gallen	Johnson	Peterson	Sims

Smathers	Vogt
Sykes	Ware
Trask	Weber

Wilson
Winn

Zinkil

Nays—None

By unanimous consent Senator Myers was recorded as voting yea.

HB 1837—A bill to be entitled An act relating to specialized state educational institutions; amending section 242.331(1), Florida Statutes, 1971, providing that there shall be one blind person and one deaf person on the board of trustees of the Florida school for the deaf and the blind; providing an effective date.

—was read the second time by title. On motion by Senator Plante, by two-thirds vote HB 1837 was read the third time by title, passed and certified to the House. The vote was:

Yeas—34

Mr. President	Gruber	Pettigrew	Trask
Brantley	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
Deeb	Johnston	Saunders	Weber
de la Parte	Lane (31st)	Sayler	Wilson
Firestone	Lane (23rd)	Scarborough	Winn
Gillespie	Lewis	Sims	Zinkil
Glisson	McClain	Smathers	
Graham	Peterson	Sykes	

Nays—None

By unanimous consent, Senator Myers was recorded as voting yea and Senator Glisson changed his vote from yea to nay.

Committee of the Whole

On motion by Senator Barron, pursuant to Rule 2.18, the Senate resolved itself into a Committee of the Whole at 11:25 a.m. for the purpose of receiving information relative to—

CS for CS for HB 270 (cs)—A bill to be entitled An act relating to governmental operations and the department of natural resources; transferring the department of pollution control to the department; transferring certain powers, duties, and functions of the division of health of the department of health and rehabilitative services to the department; transferring the board of trustees of the internal improvement trust fund to the department; repealing sections 20.26 and 20.27, Florida Statutes, to abolish the department of pollution control and the board of trustees of the internal improvement trust fund; providing for coordination of transfers by the department of administration; creating the Florida environmental adjudication commission; providing that existing rules and regulations of affected agencies shall remain in force; providing that no existing legal proceedings will be abated; providing for amendment of conflicting nomenclature; providing new powers and duties of the department of natural resources; providing an effective date.

—which passed the House of Representatives on May 24, was received by the Senate on May 28 and referred to the Committees on Natural Resources and Conservation and Ways and Means.

The motion was adopted by the following vote:

Yeas—29

Mr. President	Gordon	Pettigrew	Ware
Barron	Graham	Plante	Williams
Brantley	Gruber	Poston	Wilson
Childers	Lane (23rd)	Sayler	Winn
Deeb	Lewis	Stolzenburg	Zinkil
de la Parte	McClain	Sykes	
Firestone	Myers	Trask	
Glisson	Peterson	Vogt	

Nays—5

Gillespie	Johnson	Lane (31st)	Weber
Henderson			

Senator Williams was recognized to explain the bill and answer questions, whereupon the Senate determined not to consider the bill during this session. The vote was:

Yeas—10

Mr. President	Gillespie	Poston	Williams
Brantley	Myers	Sayler	
Firestone	Pettigrew	Sims	

Nays—25

Barron	Johnson	Plante	Ware
Childers	Johnston	Scarborough	Wilson
Gallen	Lane (31st)	Smathers	Winn
Glisson	Lane (23rd)	Stolzenburg	Zinkil
Gordon	Lewis	Sykes	
Gruber	McClain	Trask	
Henderson	Peterson	Vogt	

The President instructed the Chairman of the Committee on Ways and Means to inform the House of Representatives that CS for CS for HB 270 (cs) will not be taken up this session.

Senator Barron moved that the Committee of the Whole rise. The motion was adopted and the Senate was called to order by the President at 11:35 a.m. A quorum present.

Conference Committee on CS for SB 79

The President announced the appointment of Senators Lewis, Gordon and Poston as conferees on the part of the Senate on CS for SB 79.

The Senate resumed Special Order.

SB 1120—A bill to be entitled An act relating to court costs and filing fees; amending ss34.041 and 28.241, Florida Statutes, 1973, to provide that service charges may be imposed for the funding of legal aid programs; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote SB 1120 was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Henderson	Pettigrew	Vogt
Brantley	Johnson	Plante	Ware
Childers	Johnston	Poston	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Sims	Wilson
Gillespie	Lewis	Smathers	Winn
Glisson	McClain	Stolzenburg	
Gordon	Myers	Sykes	
Gruber	Peterson	Trask	

Nays—None

By unanimous consent Senator Graham was recorded as voting yea.

HB 2892—A bill to be entitled An act relating to the State University System, authorizing the acceptance of credit cards in payment for goods, services, tuition and fees; providing certain restrictions; providing for the establishment of accounts in credit card banks, amending §240.042, Florida Statutes, 1971, creating new paragraph 240.042(2)(p), providing an effective date.

—was read the second time by title.

The Committee on Education offered the following amendments which were moved by Senator Gordon and adopted:

Amendment 1—On page 1, strike all of lines 25 through 30 and insert:

shall be given and no service charge assessed; and the board of regents is further authorized to establish accounts in credit card banks for the deposit of credit card sales invoices.

Section 2. This act shall take effect July 1, 1974.

Amendment 2—On page 1, strike all of lines 27 through 30 and insert:

Section 2. Paragraph (i) is added to subsection (2) of section 230.754, Florida Statutes, to read:

230.754 Community colleges; duties and powers.—

(2) In carrying out this responsibility, the trustees, after considering recommendations submitted by the community college president, shall exercise the following general powers:

(i) Community college boards of trustees are hereby authorized to enter into agreements and accept credit card payments as compensation for goods, services, tuition and fees; providing however, that no discount shall be given and no service charge assessed; and the community colleges are further authorized to establish accounts in credit card banks for the deposit of credit card sales invoices.

Section 3. This act shall take effect July 1, 1974.

Amendment 3—On page 1 in title, strike all of lines 4 through 12 and insert: system and community colleges, authorizing acceptance of credit cards in payment for goods, services, tuition and fees; providing certain restrictions; providing for the establishment of accounts in credit card banks; amending §240.042(2) and §230.754(2), Florida Statutes; providing an effective date.

Senators Gordon, Sykes and Graham offered the following amendment which was moved by Senator Gordon and adopted:

Amendment 4—On page 1, line 30, insert: after "Section 3." Section 240.095 (2), Florida Statutes, is amended to read:

240.095 DEPOSIT OF FUNDS RECEIVED BY INSTITUTIONS AND AGENCIES IN THE STATE UNIVERSITY SYSTEM.—

(8) ~~Student activity funds, including admissions to athletic events. The several state universities are authorized to collect, as a component part of the registration and tuition fees, a student activity fee in the amounts as approved by the legislature. The student activity fees shall be paid into a student activity fund at each state university, and shall be expended for lawful purposes to benefit the student body in general, including but not limited to student publications and grants to duly recognize student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion, but not to the benefit of activities for which an admission fee is charged to students, except for intercollegiate athletes. The allocation and expenditure of the student activity fund shall be determined by the student government association at each university; provided that the president of the university may veto any line item or portion thereof, within the budget as determined by the student government association legislative body. The president may reallocate the funds to the health service, intercollegiate athletics or current bond obligations. Unexpended funds and undischarged funds remaining at the end of a fiscal year shall be carried over and remain in the student activity fund and be available for allocation and expenditure during the next fiscal year.~~

(Renumber subsequent sections accordingly)

Senator Gordon moved the following amendment which was adopted:

Amendment 5—On page 1, line 11 in title, insert after the comma: amending section 240.095 (2), Florida Statutes; providing for the allocation of student activity fees and services by the student government associations of the several state universities; providing an effective date.

On motion by Senator Gordon, by two-thirds vote HB 2892 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—35

Mr. President	Gordon	Lane (31st)	Pettigrew
Brantley	Graham	Lane (23rd)	Poston
Childers	Gruber	Lewis	Saunders
Firestone	Henderson	McClain	Sayler
Gillespie	Johnson	Myers	Scarborough
Glisson	Johnston	Peterson	Sims

Smathers	Trask	Weber	Winn
Stolzenburg	Vogt	Williams	Zinkil
Sykes	Ware	Wilson	

Nays—None

SB 631 was laid on the table.

On motion by Senator Smathers the rules were waived and privileges of the floor were accorded to Arnold L. Greenfield, director and general counsel, Division of Bond Finance of the Department of General Services and Sam D. Draper of the Department of Transportation during consideration of SJR 819.

SJR 819—A joint resolution proposing an amendment to Section 9, Article XII of the State Constitution, relating to bonds, to continue for fifty years from January 7, 1975, the "second gas tax" and to pledge the full faith and credit of the state to finance the acquisition and construction of transportation facilities when authorized by law and approved by the governing body of the county and the state agency supervising the state road system.

—was read the second time by title.

The Committee on Ways and Means offered the following amendment which was moved by Senator Smathers:

Amendment 1—On page 5, lines 2 and 3, strike "*and, to the extent permitted by federal law, other transportation facilities.*" and insert: *and other transportation facilities; provided, however, no portion of the "second gas tax" designated in this section shall be used for any purpose or in any manner which would cause the state to lose any federal funds allocated or apportioned to this state or any agency thereof.*

Senator Deeb moved the following amendment to Amendment 1:

Amendment 1a—On page 1, strike on line 1 "provided however" and all of lines 2, 3, 4, 5 and 6

On motion by Senator Deeb, further consideration of SJR 819 was deferred.

CS for HB 1936—A bill to be entitled An act relating to elections; amending §99.092, F.S., to provide a new method of computing the amount of filing fees and to exempt certain persons from the payment of filing fees and party assessments; creating §99.095, F.S., to provide an alternative method of ballot access for candidates of limited means; providing for petitions; providing for verification of signatures and payment therefor; providing for certification by the department of state; amending §§99.152, 99.153, and 101.261(3), F.S., relating to independent candidates and minority party candidates, to provide for waiver of certain fees for candidates of limited means and modifying the petitioning requirements; repealing §99.101, F.S., relating to filing fees for certain political party officers; providing an appropriation; providing an effective date.

—was read the second time by title.

On motion by Senator Barron, the rules were waived and time of adjournment was extended until final action on CS for HB 1936.

Senator Wilson moved the following amendment which failed:

Amendment 1—On page 1, line 28, strike everything after the enacting clause and insert: Section 1. Section 99.092, Florida Statutes, is amended to read:

99.092 Filing fee and committee assessment of candidate; notification of department of state.—

(1) Each A candidate for nomination for any office except those candidates described in section 99.095, Florida Statutes, is required to pay a filing fee to the officer with whom he qualified a filing fee and attach the original or signed duplicate of the receipt for his party assessment or pay the same, in accordance with the provisions of §103.121, at the time of filing the sworn statement. The amount of the filing fee is three percent (3%) of the annual salary of the office. ~~but for any state or legislative office, it shall not be less than one hundred eighty dollars.~~ The amount of the committee

assessment is two percent of the annual salary unless made less by the executive committee, but in the case of state or legislative offices it shall not be less than one hundred twenty dollars. *Candidates not filing with a party designation shall pay a filing fee of forty-five one-hundredths of one percent (.45 percent, of the annual salary of the office, all of which shall be deposited in the general revenue fund of the state, and said candidates shall not pay a committee assessment or other filing fees.* No qualifying fees shall be returned to the candidate unless he withdraws his candidacy before the last date to qualify.

(2) Upon filing of the party assessment, and the filing qualification fee, the clerk of the circuit court shall immediately after the close of qualifying date submit to the department of state a list containing the names, party affiliation and addresses of all candidates and the office for which they qualified.

(3) Each candidate for the office of governor and the office of lieutenant governor shall pay a separate fee for his office in accordance with this section.

Section 2. Chapter 99, Florida Statutes, is amended by adding section 99.095 to read:

99.095 Alternative method of qualifying.—

(1) A candidate for nomination for any office who is unable to pay the filing fee and party assessment prescribed by section 99.092, Florida Statutes, without imposing an undue burden on his personal resources or on resources otherwise available to him may have his name placed on the ballot for the first primary election by means of the petitioning process prescribed in this section. A candidate availing himself of this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office, stating that he intends to qualify for the office sought and stating that he is unable to pay the filing fee and party assessment for that office without imposing an undue burden on his personal resources or on resources otherwise available to him. Such oath shall be filed at any time after noon of the eighty-fourth day prior to the first primary but no later than noon of the sixty-third day prior to the first primary. The department of state shall prescribe the form to be used in administering and filing such oath. No signatures shall be obtained by a candidate on any nominating petition until he has filed the oath prescribed herein.

(2) Upon receipt of a written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures pursuant to this section and shall affix the date of issuance on each form. Such forms shall be prescribed by the department of state. A name on a petition which is not in the exact form as a name on the voter registration books shall be counted as a valid signature for purposes of subsection (3) of this section if, after comparing the signature on the petition with the signature of the alleged signer as shown mines that the person signing the petition and the person registering to vote are one and the same. No signature shall be counted toward the number of signatures required by subsection (4) unless it is on a petition form prescribed pursuant to this subsection.

(3) When a candidate has filed the oath prescribed in subsection (1), he may begin to seek signatures on petitions supporting his candidacy. Only signatures of those electors registered in the political party by which the candidate seeks to be nominated and who are registered to vote in the county, district, or other geographical entity represented by the office sought shall be counted toward obtaining the minimum numbers of signatures prescribed in this subsection. A candidate for an office elected on a statewide basis shall obtain the signatures of a number of qualified electors equal to at least five percent (5%) of the total number of registered electors of Florida who are registered in the party to which he seeks nomination, as shown by the compilation by the department of state for the most recent general election. A candidate for any federal, state, or county office to be elected on less than a statewide basis shall obtain the signatures of a number of qualified electors of the district or county equal to at least five percent (5%) of the total number of registered voters of the party by which he seeks nomination that are registered within the district, county, or other geographical entity represented by the office sought, as shown by the compilation by the department of state for the most recent general election. A separate petition shall be circulated for each candidate avail-

ing himself of the provisions of this section; provided, candidates for the offices of governor and lieutenant governor forming joint candidacies shall use the same nominating petition for both candidates.

(4) Candidates for nomination to statewide or other multi-county offices shall file separate petitions from each county from which signatures are sought. Each petition shall be submitted to the supervisor of elections of the county in which such petition is circulated not later than the first date for qualifying for office. Each supervisor of elections to whom a petition is submitted shall check the names of the persons on the petition to verify their status as electors of the political party by which the candidate seeks nomination and of that county and of the district or other geographical unit represented by the office being sought by the candidate. No later than the last date for qualifying, the supervisor shall certify that number shown as registered electors of such county and district or other geographical unit and of the appropriate political party and submit such certification to the department of state. The department of state shall determine whether the required number of signatures have been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate and the board of county commissioners of the appropriate county or counties that the candidate's name is to be placed on the ballot. When a candidate is so notified, he shall immediately submit a copy of such notice and the qualifying oath prescribed by section 99.021, Florida Statutes, to the officer with whom he qualifies pursuant to section 99.061, Florida Statutes. Upon receipt of such notice and qualifying papers, the qualifying officer shall certify the name of the candidate to the appropriate board or boards of county commissioners as having qualified for the office sought.

(5) No fee for checking signatures on petitions shall be charged to any candidate filing nominating petitions pursuant to this section. The board of county commissioners of each county shall submit the total number of such signatures checked in that county to the comptroller no later than December 1 of each general election year and the comptroller shall cause such board of county commissioners to be reimbursed from the general revenue fund in an amount equal to ten cents (10¢) for each signature verified or the actual total cost for verification, whichever is less.

Section 3. Sections 99.152 and 99.153, Florida Statutes, are amended to read:

99.152 Independent candidates for statewide office; name on general election ballot.—Any registered elector seeking the office of governor, lieutenant governor, secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture, commissioner of education, member of the public service commission, justice of the supreme court, and United States senator may have his name as an independent candidate printed on the general election ballot in which election one or more of those offices will be filled, provided he is otherwise qualified to hold the office that he seeks and ~~provided he files his qualification papers, pays the filing fee and files his petition not later than noon of the thirty-fifth day prior to the date of the first primary preceding the general election.~~ *Provided, candidates who are unable to pay such fee without imposing an undue burden on their personal resources or upon resources otherwise available to them shall upon written certification of such inability given under oath, to the department of state, be exempted from paying the filing fee.* The petition requesting that he be assigned a position on the general election ballot shall be signed by five percent (5%) of the registered electors of Florida, as shown by the compilation by the department of state for the last preceding general election. When joint candidacies for the offices of governor and lieutenant governor are provided by law, independent candidates for the offices of governor and lieutenant governor must likewise form such joint candidacies, and only one petition will be required to place both names on the ballot as otherwise provided in this section. A separate petition shall be submitted from each county from which signatures are solicited. The petition shall be submitted to the supervisors of election of those counties no later than thirty-five days prior to the first primary preceding said general election, and the supervisor shall check the names and shall, on or before the day of the first primary, certify the number shown as registered electors of said county. The supervisor shall be paid by the person requesting the certification the sum of ten cents for each name checked *or the actual cost of checking such names, whichever is less.* *Provided, per-*

sons who cannot pay such charges without imposing an undue burden on their personal resources or upon resources otherwise available to them shall, upon written certification of such inability given under oath to the supervisor, be entitled to have signatures verified at no charge. In such event, the board of county commissioners shall be reimbursed in the manner and the amount provided in section 99.095(5), Florida Statutes. The supervisor shall then forward the petition, with a certificate attached, to the department of state which shall determine whether or not the percentage factor as required herein has been met. If the percentage factor has been met, the department of state shall notify *within five days* the candidate that he has secured a position on the ballot for the said general election. ~~The candidate shall, within five days of being so notified by the department of state, qualify with the department of state, pay his filing fee, and take and subscribe to the oath provided in §99.021. The qualification of each candidate to be on the general election ballot shall become official upon his filing with the department of state if the candidate is otherwise qualified to hold the office which he is seeking.~~

99.153 Independent candidates for other offices.—Any registered elector seeking the office of state senator, member of the house of representatives, circuit court judge, district court judge, state attorney, representative to congress, any county office, and any officer elected by a county or district constituency in a partisan election preceded by party primaries may have his name as an independent candidate printed on the general election ballot, if he is otherwise qualified to hold the office that he seeks and ~~if he files his qualification papers, pays the filing fees and files his petitions not later than noon of the thirty-fifth day prior to the date of the first primary preceding the general election.~~ *Provided, candidates who are unable to pay such fee without imposing an undue burden on their personal resources or upon resources otherwise available to them shall, upon written certification of such inability given under oath to the department of state, be exempted from paying the filing fee.* The petition requesting that he be assigned a position on the general election ballot is signed by ~~five~~ *three* percent (5%) of the registered electors of the county or district which is represented by the office sought *as shown by the compilation by the department of state for the last preceding general election.* The petition or petitions shall be submitted to the supervisor of elections of the county or counties, if there is more than one county in the representative district, no later than thirty-five days prior to the first primary preceding the general election, and the supervisor shall check the names and shall, on or before the day of the first primary, certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the sum of ten cents, for each name checked *or the actual cost of checking such names, whichever is less.* *Provided persons who cannot pay such charges without imposing an undue burden on their personal resources or upon resources otherwise available to them shall, upon written certification of such inability given under oath to the supervisor, be entitled to have signatures verified at no charge. In such event, the board of county commissioners shall be reimbursed in the manner and amount provided by section 99.095(5), Florida Statutes.* The supervisor shall then forward the petition, with a certificate attached, to the department of state which shall determine whether or not the percentage factor as required herein has been met. If the percentage factor has been met, the department of state shall *within five days* notify the candidate that he has secured a position on the ballot for the general election. ~~The candidate shall, within five days of being notified by the department of state, qualify with the department of state, pay his filing fee, and take and subscribe to the oath provided in §99.021. The qualification of each candidate to be on the general election ballot shall become official upon his filing with the department of state if the candidate is otherwise qualified to hold the office which he is seeking.~~

Section 4. Subsection (3) of section 101.261, Florida Statutes, is amended to read:

101.261 Minority party candidates for state offices; names on ballot.—

(3) The executive committee of the party shall at the time of submitting the petitions to the various supervisors of elections, or no later than thirty-five days prior to the date of the first primary, submit to the department of state an official list of the candidates nominated by that party to be on the

ballot in the general election. Candidates selected by a party pursuant to this section must qualify with the department of state, pay their filing fee, and take and subscribe to the oath provided in §99.021, within five days of notification by the department of state that the party has secured a position on the general election ballot. *Provided, candidates who are unable to pay such fee without imposing an undue burden on their personal resources or upon resources otherwise available to them shall, upon written certification of such inability given under oath to the department of state, be exempted from paying the filing fees.* The qualification of each candidate to be on the general election ballot shall become official upon his filing with the department of state if the candidate is otherwise legally qualified to hold the office which he is seeking. The official list of nominated candidates may not be changed by the party after having been filed with the department of state, except that candidates who have qualified may withdraw from the ballot pursuant to the provisions of this code.

Section 5. The amounts necessary to comply with the provisions of this act are hereby appropriated on an annual basis from the general revenue fund of the state.

Section 6. Section 99.101, Florida Statutes, is repealed.

Section 7. This act shall take effect upon becoming law.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED
IN COMMITTEE SUBSTITUTE FOR SENATE BILL 346

Page 2, lines 16—22:

Provides independent candidates shall pay a filing fee of (.45%) of the annual salary of the office. Such candidates shall not pay a party assessment or other filing fee.

** No change is made in the filing fee and assessment exemption upon submission of a written oath of undue burden by a party candidate.

Page 6, lines 25—30 and Page 7, line 1:

Transfers reference to filing fee exemption for independent candidates from page 7, lines 21—30 and page 8, lines 1—5 in original SB 346.

Page 8, lines 18—26:

Transfers reference to filing fee exemption for independent candidates from page 9, lines 17—22 in original SB 346.

Senator Wilson moved the following amendment:

Amendment 2—Insert new Section 6 as follows:

Section 6. Section 100.041, Florida Statutes, is amended to read:

100.041 Officers chosen at general election.—

(1) State senators representing the odd numbered districts shall be elected at a general election to be held in 1920 and every four years thereafter. State senators from the even numbered districts shall be chosen in the general election in 1922, and every four years thereafter. Members of the house of representatives shall be chosen at every general election. The clerk of the circuit court, county court judge, sheriff, superintendent of schools, county assessor of taxes, and county tax collector shall be chosen for each county by its qualified electors at the general election in 1920 and every four years thereafter. Commencing with the general election of 1966, the governor and the administrative officers of the executive department shall be elected for terms of four years. The terms of office shall begin the first Tuesday after the first Monday in January after said election. ~~No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term. The governor elected at the general election of 1964, shall be eligible for reelection to said office in the general election of 1966, but the governor elected at the general election of 1966, and thereafter, shall not be eligible for reelection to said office the next succeeding term.~~

Section 7. This act shall take effect upon becoming law.

Senator Gillespie raised a point of order that Amendment 2 by Senator Wilson was not germane to the bill.

The President ruled the point well taken and the amendment out of order.

On motion by Senator Scarborough, by two-thirds vote CS for HB 1936 was read the third time by title, passed and certified to the House. The vote was:

Yeas—34

Mr. President	Graham	Myers	Sykes
Barron	Gruber	Peterson	Trask
Brantley	Henderson	Pettigrew	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Sayler	Weber
Firestone	Lane (31st)	Scarborough	Winn
Gallen	Lane (23rd)	Sims	Zinkil
Gillespie	Lewis	Smathers	
Gordon	McClain	Stolzenburg	

Nays—3

Glisson	Williams	Wilson
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By unanimous consent Senator Childers was recorded as voting yea; Senator de la Parte changed his vote from yea to nay.

Senate Bills 346 and 213 were laid on the table.

On motion by Senator Barron, the Senate adjourned at 12:10 p.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:30 p.m. A quorum present—40:

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Pettigrew	Trask
Childers	Henderson	Plante	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Scarborough	Winn
Gillespie	Lewis	Sims	Zinkil
Glisson	McClain	Smathers	

EXECUTIVE BUSINESS

REPORT OF COMMITTEE

May 29, 1974

The Committee on Rules and Calendar recommends that the Senate do advise and consent to the following appointments:

Tom S. Coldewey	Member, Northwest Florida Water Management District
Port St. Joe	
Kelly F. Swindle	Member, Northwest Florida Water Management District
Bonifay	
Jerome Johns	Member, Suwannee River Water Management District
Starke	
William Auley Rowell	Member, Suwannee River Water Management District
Shady Grove	
Ralph Thomas Clay	Member, St. Johns River Water Management District
Palatka	
Bobby E. White	Member, St. Johns River Water Management District
Hastings	

Respectfully submitted,
Dempsey J. Barron, Chairman

On motion by Senator Childers, the foregoing report was adopted.

The question recurred on the adoption of the following report:

Senator Mallory E. Horne
President, The Florida Senate
The Capitol

March 19, 1974

Dear Mr. President:

Your Standing Committee on Natural Resources and Conservation to whom was referred for inquiry and recommendation the following appointments subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
Tom S. Coldewey Port St. Joe	Member, Northwest Florida Water Management District	July 1, 1977
Kelly F. Swindle Bonifay	Member, Northwest Florida Water Management District	July 1, 1975
Ralph Thomas Clay Palatka	Member, St. Johns River Water Management District	July 1, 1977
Bobby E. White Hastings	Member, St. Johns River Water Management District	July 1, 1975
Jerome Johns Starke	Member, Suwannee River Water Management District	July 1, 1975
William Auley Rowell Shady Grove	Member, Suwannee River Water Management District	July 1, 1977

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointments made by the Governor.

Respectfully submitted,

W. D. CHILDERS, <i>Chairman</i>	LEW BRANTLEY, <i>Vice Chairman</i>
RICHARD J. DEEB	TOM GALLEN
WARREN S. HENDERSON	HENRY SAYLER (<i>dissenting</i>)
JOHN W. VOGT	SHERMAN S. WINN
WILLIAM G. ZINKIL, SR.	

On motion by Senator Childers, the report of the committee was adopted, and the Senate in open session approved and confirmed the appointments set forth in the foregoing report. The vote was:

Yeas—31

Mr. President	Graham	Myers	Sykes
Barron	Gruber	Peterson	Trask
Brantley	Henderson	Pettigrew	Vogt
Childers	Johnson	Plante	Ware
Gallen	Johnston	Poston	Williams
Gillespie	Lane (23rd)	Scarborough	Winn
Glisson	Lewis	Sims	Zinkil
Gordon	McClain	Smathers	

Nays—None

ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred—

CS for SB 15 with 2 amendments SB 903 with 2 amendments

—reports that the House amendments have been incorporated and the bills are returned herewith.

JOE BROWN, Secretary

The bills were ordered enrolled.

Your Engrossing Clerk to whom was referred—

SB 393 with 2 amendments	SB 945 with 3 amendments
SB 716 with 3 amendments	SB 958 with 2 amendments
SB 721 with 2 amendments	CS for SB 1020 with 3 amendments
SB 749 with 2 amendments	
SB 798 with 2 amendments	SCR 1119 with 1 amendment

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

JOE BROWN, Secretary

The bills were certified to the House.

Your Engrossing Clerk to whom was referred SR 867 with 1 amendment reports that the Senate amendment has been incorporated and the bill is returned herewith.

JOE BROWN, Secretary

ENROLLING REPORT

Your Enrolling Clerk to whom was referred CS for SB 504 reports same has been enrolled, signed by the required Constitutional officers and presented to the Governor on May 29, 1974.

JOE BROWN, Secretary

On motions by Senator Vogt, Senate Bills 534, 535, 539, 540 and 543 were withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

SPECIAL AND CONTINUING ORDER

CS for CS for HB 3418—A bill to be entitled An act relating to public officers and employees and candidates for public office; amending §§112.311, 112.312, 112.313, 112.314, 112.316, and 112.317, Florida Statutes, 1973, and creating §§112.3145 and 112.3155, Florida Statutes, providing legislative intent; providing definitions; establishing standards of conduct for public officers and employees, candidates, advisory board members, legislators and legislative employees, and judicial officers; requiring disclosure of financial interests by source and percentage by public officers and candidates; including spouse and minor child within the definition of public officer for purposes of financial disclosure; including in the requirement to disclose total compensation received, all persons doing consulting work with an agency; providing for forms and procedures for such disclosures; providing for construction of part III of chapter 112, Florida Statutes; providing enforcement; repealing §112.318, Florida Statutes, 1973, relating to procedures on complaints of violation of part III of chapter 112, Florida Statutes; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendment which was moved by Senator Williams:

Amendment 1—On page 1, line 30, through page 31, line 8 strike everything after the enacting clause and insert: Section 1. Section 112.311, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See section 112.311, F.S., 1973, for present text.)

112.311 Legislative intent.—The purpose of this part is to establish a code of ethics for all public officers and employees, and judicial officers and employees prohibiting conflict between public duty and private interest, and to strengthen the faith and confidence of the people of the state in their government. It is the legislative intent that in order to prevent conflict of interest on the part of public officers as defined herein that full disclosure of income and net assets by source and percentage shall be required of such officers.

Section 2. Section 112.312, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See section 112.312, F.S., 1973, for present text.)

Section 112.312 Definitions.—As used in this part, unless the context otherwise requires:

(1) "Advisory board member" includes members of strictly advisory boards which have no authority to expend public funds other than reimbursement for personal expense, or to otherwise exercise the power of the state or any county, municipality, or other political subdivision.

(2) "Agency" means any state, county, local or municipal governmental entity, whether executive, judicial, or legislative, and therein any department, division, bureau, commission, authority, or special taxing district with authority to exercise the sovereign power of the state.

(3) "Business entity" means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not.

(4) "Candidate" means any person who has filed his qualification papers and subscribed to the candidate oath as required by section 99.021, or seeks by election to become a public officer excluding county committeemen in counties under 100,000 population according to the last decennial census.

(5) "Disclosure period" means the period extending from January 1 through December 31 immediately preceding the date on which the financial disclosure statement required by this part is required to be filed.

(6) "Employee" means any employee of an agency.

(7) "Financial interest" means direct or indirect ownership of any asset or receipt of income.

(8) "Gift" means any thing of economic value, of a value in excess of twenty-five (\$25.00) dollars, received without payment or transfer of valuable consideration in return, but does not include campaign contributions nor gifts from relatives within the third degree consanguinity.

(9) "Income" includes both ordinary income and capital gains or moneys received. Income is further defined to mean cash, tangible or intangible property, or anything of value received by the candidate or public officer.

(10) "Material interest" means ownership, direct or indirect, of ten percent (10%) or more of the total assets of any business entity; or ownership, direct or indirect, of ten percent (10%) or more of the outstanding capital stock in any corporation or professional service corporation; or a direct or indirect interest of a value of ten thousand dollars (\$10,000), or more, in any business entity; or a direct or indirect interest in any business entity which can reasonably be expected to result in income or gain of one thousand dollars (\$1,000) or more during the succeeding taxable year, but not including income earned or to be earned in the nature of a salary or profit sharing from a publicly held corporation. For purposes of this section:

(a) "Indirect" means ownership by the spouse or jointly with the spouse of the public officer, candidate, or employee, or ownership, by an agent, trustee, or business entity on his behalf, or by an irrevocable trust or trusts in which his or her spouse or his or her minor children have a present or future interest of a value, singular or cumulative, of ten thousand dollars (\$10,000), except where the settlor of such trust is a relative of said public officer within the third degree of consanguinity and where the public officer is not the trustee and has no interest in the trust assets.

(b) "Direct" means any ownership other than indirect.

(11) "Net asset" means the fair market value of an asset less any borrowings specifically encumbering the asset.

(12) "Person or business entities provided a grant of privilege to operate" includes state or federally chartered banks, state or federal savings and loan associations, small loan companies, alcoholic and spirituous liquor businesses, whether retail or wholesale, pari-mutuel wagering companies, utility companies, cemetery companies, insurance companies, mortgage companies, credit unions, and any entity controlled by the public service commission or granted a franchise to operate by either a municipal or county government.

(13) "Public officer" or "officer" includes:

(a) All elected public officers, congressional, executive, judicial, legislative, state, county, municipal or local.

(b) Members of boards, commissions, authorities, special taxing districts, and the head of each state agency, however selected, but excluding advisory board members as herein defined.

(c) Referees, receivers, and hearing examiners appointed by any agency, and judges of industrial claims.

(d) Members of the board of regents, the chancellor of the university system and the presidents of state colleges and universities, and the presidents and members of the boards of trustees of public junior and community colleges.

(e) Any person employed in the office of the governor or in the office of any member of the cabinet who is exempt from the career service system, except persons employed in clerical, secretarial, or similar positions.

(f) The appointed secretaries, assistant secretaries, deputy secretaries, executive directors, assistant executive directors, and deputy executive directors of all state departments and, unless otherwise provided, the directors of all divisions and bureaus of all departments of state government.

(g) The institute directors of the mental health institutes authorized for Tampa and Miami for training and research in the mental health field.

(h) All legislative employees whose job classification is staff director I or above, the sergeants-at-arms of the house and senate, the clerk of the house, the secretary of the senate, the executive director of the joint legislative management committee, the director of the house bill drafting service, and the director of the senate legislative services.

(i) All full time state employees who, in addition to their regular duties, accept compensation for consultations with other state agencies or with other government or private entities.

(j) All appointed public officers including sheriffs, tax collectors, tax assessors, supervisors of elections, clerks of the circuit court, chiefs, of police, county managers, county administrators, county attorneys, assistant state attorneys, city managers, city attorneys, district school superintendents, school board attorneys, and appointed heads of city and county planning and zoning boards, members of school boards, members of planning boards, members of zoning boards, and members of planning and zoning boards, or any boards having jurisdiction with respect thereto.

(k) Purchasing agents for any agency.

(14) "Source" means the name, address, and description of the principal business activity of the business entity.

(15) "Spouse" means the marital partner of the person required to file financial disclosure where the marital partner resides in the same household with the person required to file.

(16) "Taxable year" means the year for which the taxpayer, whether the calendar year or some other fiscal year, reports his income or the income of any business entity from which the taxpayer derives a majority of his income.

Section 3. Section 112.313, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See section 112.313, F.S., for present text.)

112.313 Standards of conduct for public officers and employees of agencies.—

(1) GIFTS.—No public officer or employee of an agency shall accept any gift from any person or business entity provided a grant of privilege to operate by, or doing business with, any agency of which he is an officer or employee; provided, however, that this prohibition shall not apply to acceptance of a gift of food or beverages consumed at a social gathering.

(2) CONFLICTS PROHIBITED.—No public officer or employee of an agency shall own a material interest in any business entity doing business with the agency of which he is an officer or employee, except in those cases when the business is contracted with full public competition and award is made under statutory bidding procedures.

(3) DISCLOSURE OF CONFLICTS.—If a public officer or employee of an agency is an officer, director, partner, proprietor, associate, or agent (other than a resident agent solely for service of process) of, or owns a material interest in, any business entity which is granted a privilege to operate, as defined in Section 112.312 (12), Florida Statutes, or is doing business with an agency of which he is an officer or employee, he shall file a sworn statement disclosing such facts within thirty (30) days of becoming an officer or employee or within ten (10) days of the acquisition of such position or of such material interest. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held or the fact that a material interest is owned. The statement shall be filed with the department of state if the individual is a state officer or employee, and shall be filed with the clerk of the circuit court of the county in which he is principally employed if he is an officer or employee of a county, municipality, or other political subdivision of the state.

(4) USE OF OFFICIAL POSITION.—No public officer or employee of an agency shall use or attempt to use his official position or perform his official duties to secure special privileges, benefits, or exemptions for himself or others except as may be otherwise provided by law.

(5) OTHER EMPLOYMENT.—No public officer or employee of an agency shall accept other employment with any business entity subject to the regulation of, or doing business with, an agency of which he is an officer or employee, which shall create a conflict between his private interests and the performance of his public duties, or will impede the full and faithful discharge of his public duties.

(6) **DISCLOSURE OR USE OF INFORMATION.**—No public officer or employee of an agency shall disclose information gained by reason of his official position for his personal gain or benefit, or for the purpose of providing personal gain or benefit to any other person.

(7) **COMPENSATION FOR DISCHARGE OF PUBLIC DUTIES.**—No public officer or employee of an agency shall receive compensation of any kind for the discharge and performance of his public duties as an officer or employee from any source other than the agency of which he is an officer or employee, except as otherwise provided by law.

(8) **USE OF GOVERNMENT PROPERTY.**—No public officer or employee of an agency shall use agency stationery, seal, papers, motor vehicles or any other property of any agency for a personal nonofficial purpose. However, agency stationery paid for by the officer or employee may be used for personal, non-business use.

Section 4. Section 112.314, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See section 112.314, F.S., 1973, for present text.)

112.314 Additional standards of conduct for legislators and legislative employees.—

A legislator shall not be prohibited from voting on any matter properly before him, but if a conflict exists on a matter and as a result of such conflict, there will inure to him a special or private gain, he shall disclose the conflict to the presiding officer prior to the vote being taken on such matter, and he may then abstain from voting and he may enter a statement of the reason for his abstention in the minutes or journal.

Section 5. Section 112.3145 Disclosure of financial interest by source and percentage; debts payable; real estate holdings; material interest in business entities; representation before agencies.—A candidate for nomination or election shall file a disclosure of financial interest by source and percentage no later than 12 noon on the tenth day after the last day to qualify as a candidate. A public officer, including persons appointed or elected to serve the unexpired term of any public officer, shall file a disclosure of financial interest by source and percentage no later than 12 noon of May 15 of each year and such requirement shall continue so as to require such filing for the year following the last year a public officer is in office. A public officer, including persons appointed or elected to serve the unexpired term of any public officer, who has filed a financial disclosure statement as required by the provisions of this act, as of May 15, need not re-file his statement if such statement was filed no more than 120 days prior to the time required to file hereunder. Every public officer who is appointed shall file a financial disclosure statement as required by the provisions of this act within fifteen (15) days from the date of his or her appointment regardless of whether or not confirmation is completed. Disclosure of financial interest by source and percentage shall be filed with the department of state in the case of candidates seeking statewide office, public officers elected statewide, members of the state legislature and other public officers exercising jurisdiction over more than one county. All other candidates and public officers shall file their disclosure of financial interest by source and percentage with the clerk of the circuit court for the county in which they reside. Such other candidates shall also file with the department of state. Candidates for and members of the state legislature shall file their disclosure of financial interest by source and percentage with the department of state. Disclosure of financial interest shall be in accordance with the following specific procedures:

(1) **INCOME BY SOURCE AND PERCENTAGE.**—

(a) All public officers and candidates shall disclose the source of all income that constitutes five percent (5%) or more of such person's gross income for the preceding taxable year, excluding dividends or interest, moneys received from guardianship, alimony, child support, retirement or disability compensation and other compensation derived from any level of government service, or any contribution as defined by sections 106.08 and 111.011, F.S. The person reporting shall indicate whether the percentage of the source of income is five percent (5%) or more but less than thirty percent (30%), or thirty percent (30%) or more. If the public officer or candidate receives any income from any business entity in which he has

a material interest, and if such income is fifteen percent (15%) or more of the gross income of the public officer or candidate, then he shall also disclose the source of all gross income of the business entity which constitutes five percent (5%) or more of the business entity's gross income for the preceding taxable year, and shall indicate the source of the income. No such income of a business entity need be reported by source and percentage if less than fifteen hundred dollars (\$1500) from one source. Any statements of sources of income filed under this act shall be on a form prescribed by the provisions of this act, and the person filing the statement shall include, but not be limited to, the following: salaries, commissions, fees, honoraria, and all other forms of compensation.

(2) **ASSETS BY DESCRIPTION AND PERCENTAGE.**—

(a) All public officers and candidates shall disclose such person's net assets by category and percentage. The person reporting shall indicate with regard to each of the categories hereinafter defined whether the percentage of the value of such person's assets in each category as compared to the value of total net assets is less than three percent, three percent or more but less than seven percent, at least seven percent but less than ten percent, at least ten percent but less than thirty percent, or thirty percent or more. In addition, if any single net asset has a value of three percent or more as compared to the value of total net assets, then the asset shall be specifically described within the appropriate category set forth hereinafter.

Any statements of description of net assets shall be on a form prescribed by the provisions of this act, and the person filing the statement shall indicate in the following categories where applicable, the description and percentage of his or her assets:

1. Stocks and bonds, listed or unlisted.
2. Cash in banks and savings accounts.
3. Certificates of deposit, treasury bills, or other similar instruments.
4. Real estate, including principal residence.
5. Personal property.
6. Trusts.
7. Business entities.
8. Notes receivable.
9. Other assets.

With regard to category three (3) above, certificates of deposit, treasury bills and similar instruments, and category eight (8) above, notes receivable, the public officer or candidate shall certify to the best of his knowledge and belief whether he has received an interest rate in excess of a rate customary and usual under the circumstances.

(3) **CREDITORS.**—All public officers and candidates shall disclose the name, address, and type of business of each creditor, other than family members through the third level of consanguinity, to whom the aggregate value of one thousand dollars (\$1,000) or more is owed, excluding borrowings against the cash value of the public officer's or candidate's life insurance; provided, that, this subsection shall not apply to any debts incurred by a public officer or candidate in the ordinary course of his trade or business in the amount of five thousand dollars (\$5,000) or less to any one person or entity. The person filing the statement must also indicate the date of the debt, the date the debt is due and payable, the interest rate, and whether the debt is secured or unsecured.

(4) **REAL ESTATE.**—All public officers and candidates shall disclose the legal description or street address or other description sufficient to identify the location of all real estate in which they have an interest, including leases, options to purchase, and all other legal or beneficial interests except for a mortgage interest or a naked legal title, as trustee, without a beneficial interest. If the public officer or candidate has a material interest in any business entity owning or dealing in real estate, the public officer or candidate shall also disclose as herein provided all real estate in which the business entity has an interest. Such disclosure shall state the specific nature of the interest of such officer or candidate or business entity.

(5) MATERIAL INTEREST.—All public officers and candidates shall disclose the name, address, and type of business entity in which he is an officer, director, partner, associate, proprietor, or agent, except a resident agent solely for service of process, or in which he holds a material interest.

(6) REPRESENTATION BEFORE AGENCIES.—All public officers and candidates shall file a list of all matters in which they, or any member of a firm in which they have a material interest, represented a client for a fee or for any actual or prospective financial benefit before any agency, which list shall include the name of each such client, the name of the agency, and a description of the service performed. For the purposes of this subsection "representation before any agency" does not include practice before any court in this state or practice before judges or commissioners of industrial claims.

(7) SWORN STATEMENT.—The financial disclosure statement shall be accompanied by a sworn statement certifying that the information contained therein is complete and an accurate description of the net assets, liabilities, income, and sources of income of the candidate or public officer and that his accounting methods have not changed since he became a candidate or public officer.

(8) ATTESTATION.—A third party shall examine and attest that the financial disclosure statement filed is in substantial conformity with the federal income tax return of the officer or candidate.

(9) PUBLIC RECORDS.—The statements required by this section shall be public records within the meaning of section 119.01.

(10) FORMS.—

(a) All disclosures of sources of income, assets, liabilities and any other material required to be disclosed under this act shall be on the form prescribed by this act.

(b) The office with which a disclosure of financial interest by source and percentage is required to be filed shall furnish forms for the disclosure of financial interest by source and percentage to all candidates at the time they file their qualifying papers, along with written notice as follows:

NOTICE

YOU ARE REQUIRED TO FILE A DISCLOSURE OF FINANCIAL INTEREST BY SOURCE AND PERCENTAGE WITH THIS OFFICE PURSUANT TO SECTION 112.3145, FLORIDA STATUTES, NO LATER THAN 12 NOON ON THE TENTH DAY AFTER THE LAST DAY TO QUALIFY. FAILURE TO COMPLY WILL RESULT IN YOUR DISQUALIFICATION.

(c) Such office shall furnish such forms to all public officers not later than March 15 of each year along with a written notice as follows:

YOU ARE REQUIRED TO FILE A DISCLOSURE OF FINANCIAL INTEREST BY SOURCE AND PERCENTAGE WITH THIS OFFICE PURSUANT TO SECTION 112.3145, FLORIDA STATUTES, NO LATER THAN 12 NOON ON MAY 15. FAILURE TO COMPLY WILL SUBJECT YOU TO POSSIBLE REMOVAL, EXPULSION, OR DISMISSAL.

(d) The form for disclosure of financial interest shall include the following statement:

YOU ARE ENTITLED TO CLAIM YOUR RIGHT AGAINST SELF-INCRIMINATION UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION AS TO ANY MATTER REQUIRED HEREUNDER.

(e) No person shall publish or reproduce in writing or cause to be published or reproduced in writing any portion or any part of any financial disclosure statement as required by the provisions of this act unless the form or forms are published or reproduced in their entirety.

Section 6. Section 112.3155, Florida Statutes, is created to read:

112.3155 Forms for reporting financial interests.—The forms to be utilized by public officers and candidates for purposes of complying with the provisions of section 112.3145 shall be as follows:

DISCLOSURE OF FINANCIAL INTEREST

(Section 112.3145, F.S.)

NAME _____ ADDRESS _____
OFFICIAL JOB TITLE _____ DATE _____

(1) INCOME BY SOURCE AND PERCENTAGE: (Section 112.3145(1), F.S.)

Show the source of all income that constitutes five percent (5%) or more of your gross income and the source of all gross income exceeding five percent (5%) of any business entity's gross income in which you hold a material interest, if the income from such business entity is fifteen percent (15%) or more of your gross income, unless such income to the business entity is less than fifteen hundred dollars (\$1500) from one source. Use a separate form (1) for reporting by source and percentage income to each such business entity.

Income means both ordinary income, capital gains, and moneys received. Income is further defined to mean cash, tangible or intangible property, or anything of value received by the candidate or public officer. The public officer or candidate is not required to disclose dividends or interest, alimony, child support, and compensation (including retirement or disability compensation) derived from any level of government service, or any contribution as defined by sections 106.08 and 111.011, F.S.

SOURCE	PERCENTAGE (Indicate by X the range of percentage applicable)	
	5 to 30%	30% or more

(2) ASSETS (Section 112.3145(2), F.S.)

Show assets by percentage in each of the categories 1 through 9. Calculations should be made by determining the percentages of net asset value, net asset value being defined as the fair market value of the asset less any borrowings specifically encumbering the asset. The total of your percentages for items 1 through 9 must be equal to 100% of your total net assets. In addition, if within any of the categories 1 through 9 any single asset, when calculated on a net asset value, is more than 3% of your total net assets, then that asset must be listed by description.

DESCRIPTION 0 to 3% 3 to 7% 7 to 10% 10 to 30% 30% or More

1. STOCKS & BONDS (Listed & Unlisted)					
2. CASH IN BANKS AND SAVINGS ACCOUNTS					
3. CERTIFICATES OF DEPOSIT, TREASURY BILLS, OR OTHER SIMILAR INSTRUMENTS					
4. REAL ESTATE, INCLUDING PRINCIPAL RESIDENCE					
5. PERSONAL PROPERTY					
6. TRUSTS					
7. BUSINESS ENTITIES					
8. NOTES RECEIVABLE					
9. OTHER ASSETS					

(5) MATERIAL INTERESTS
(Section 112.3145(5) F.S.)

NAME, ADDRESS AND TYPE OF
BUSINESS ENTITY

POSITION HELD OR MATERIAL
INTEREST

I, _____ declare to the best of my knowledge and belief that I (have) (have not) received an interest rate on certificates of deposit or on notes receivable reported herein, in excess of a rate customary and usual under the circumstances.

Signature

YOU ARE ENTITLED TO CLAIM YOUR RIGHT AGAINST SELF-INCRIMINATION UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION AS TO ANY MATTER REQUIRED HEREUNDER.

(3) CREDITORS
(Section 112.3145(3), F.S.)

(Excluding debts of five thousand dollars (\$5,000) or less incurred in the ordinary course of trade or business)

Name of Creditor, Address and Type of Business	Date of Obligation	Demand or Due Date	Interest Rate	Secured or Unsecured

(4) REAL ESTATE
(Section 112.3145(4), F.S.)

(If more space is needed, please attach supplement to this form.)

LEGAL DESCRIPTION OR OTHER
SUFFICIENT DESCRIPTION OR
ADDRESS (As appearing on tax bill)

DESCRIPTION OF INTEREST

Section 7. Section 112.316, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See §112.316, F.S., 1973, for present text.)

112.316 Construction.—

(1) This part shall be liberally construed to prohibit conflicts between public duties and private interests of public officers and employees.

(2) This part shall not be construed to preempt any more stringent county or municipal provisions or to restrict counties or cities from adopting more stringent provisions, and, in such case, such provisions shall be cumulative and supplementary.

Section 8. Section 112.317, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See §112.317, F.S., 1973, for present text.)

112.317 Enforcement.—

(1) The state attorney in any county where a violation of this part is alleged to have occurred, the attorney general, if the state attorney fails to take action, or any citizen or group of citizens of this state, may bring an action in circuit court to enjoin violations of or compel compliance with the provisions of this part; provided however nothing herein shall preclude action by the commission of ethics on complaints of violation of any provision of this part, providing such commission is established by law.

(2) Upon a preliminary showing that there are reasonable grounds to believe that violation of §§112.313 or 112.314 has occurred, the court may restrain the execution of any decision, contract, order, permit, resolution or other official act in relation to which a violation of §§112.313 or 112.314 is alleged to have occurred, pending final adjudication, provided that any injury suffered by innocent persons relying on the official act does not outweigh the public interest in a temporary stay of the act. If it is ultimately determined that a violation has occurred, the court may set aside as void any decision, order, permit, resolution, contract or other official action affected by the violation.

(3) If it is determined that a violation of §§112.313 or 112.314 has occurred, and if the public officer who committed the violation realized an economic benefit as a result of the action or decision, the court may impose a penalty against the public official of up to three times the value of the benefit.

(4) No public officer required to file a statement pursuant to §112.3145 shall receive any compensation from any agency for the period in which he is in violation if the statement is not filed as required; provided that, in the event any public officer has received compensation for the period in which he is in violation, prior to discovery or disclosure of said violation, then he shall repay the compensation to the agency, and the agency may bring an action to recover such compensation.

(5) No public officer required to file a statement pursuant to §112.3145 shall take office until the statement as required has been filed. A violation of any provision of this part shall be grounds for removal from or disqualification from holding public office.

(6) In any action to enforce the provisions of this act, the court may award reasonable attorney fees and court costs to the prevailing party or parties, whether or not there has been a final judgment in the matter.

Section 9. Section 112.318, Florida Statutes, 1973, is repealed if, and only if, a commission on ethics is established by law prior to or on the effective date of this act.

Section 10. Section 112.319, Florida Statutes, 1973, is created to read:

112.319 Filing with the commission.—A copy of each disclosure statement required to be filed by this act with the department of state or the clerk of the circuit court shall, at the same time of such filing be filed with the commission on ethics.

Section 11. If any section, subsection, sentence, clause, phrase, or word of this act is for any reason held or declared

(6) REPRESENTATION BEFORE AGENCIES (Section 112.3145 (6) F.S.)

Representation before agencies by the business entity in which the public officer or candidate holds a material interest.

Table with 3 columns: CLIENT, AGENCY, DESCRIPTION OF SERVICE PERFORMED. The table is currently empty.

State of Florida County of _____

Before me the undersigned attesting officer, personally appeared _____, who after being sworn, deposes, certifies and says that the foregoing is a true, accurate and total listing of all his net assets, liabilities, income and sources of income for the period listed as required by section 112.3145, Florida Statutes, and that his accounting methods (have) (have not) changed since he became a candidate or public officer.

Name _____ Address _____

Subscribed and sworn to before me this _____ day of _____ 19____, at _____ County.

Notary Public, State of Florida at Large My Commission Expires:

Under the penalties of perjury, I _____ declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is in substantial conformity with the facts disclosed on the federal income tax return of the taxpayer.

Signature _____

to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not be construed to affect the portions of this act not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this act to other persons or circumstances not so held to be invalid; it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void portion or portions of this act did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of this act, the legislature would have enacted the valid and constitutional portions thereof.

Section 12. This act shall take effect on July 1, 1974, provided however, elected public officers shall be exempt from the financial disclosure provisions of this act which apply to public officers for the remainder of any term of office to which they were elected prior to July 1, 1974, except those elected for a term which extends beyond December 31, 1974, and further provided that as to appointed public officers below the state level, the requirements of this act shall not become operative until July 1, 1975. Notwithstanding the foregoing, this act shall become null and inoperative on July 1, 1978.

Senators Gordon, Myers, Gallen, Johnson, Lewis, Deeb, Peterson, Plante, Sims, Sykes, Sayler, Brantley, Lane (23rd), Lane (31st), Ware, Vogt, de la Parte, Trask, McClain, Gruber, Johnston, Childers, Barron and Scarborough offered the following substitute amendment which was moved by Senator Gordon:

Amendment 2—On page 1, line 29, strike everything after the enacting clause through the remainder of the bill and insert:

Section 1. Section 112.311, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See sec. 112.311, F.S., for present text.)

112.311 Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial; that public office not be used for private gain other than remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that governments attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as to not unreasonably or unnecessarily impede the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except where conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues, and past or pending legislative and executive actions, at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the State of Florida that no officer or employee of a state agency or of a county, city or other political subdivision of the state, and no member of the legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction, or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is

enacted a code of ethics setting forth standards of conduct required of state, county and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the legislature that this code shall serve not only as a guide for official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of part III of chapter 112.

Section 2. Section 112.312, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See sec. 112.312, F.S., for present text.)

112.312 Definitions.—As used in this part, unless the context otherwise requires:

(1) "Agency" means any entity defined in section 20.03(11).

(2) "Business entity" means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in the state of Florida.

(3) "Candidate" means any person who has filed his qualification papers and subscribed to the candidate oath as required by section 99.021, or seeks by election to become a public officer excluding county committeemen regulated by Chapter 103, Florida Statutes.

(4) "Disclosure period" means the period extending from January 1 through December 31 immediately preceding the date on which the financial disclosure statement required by this part is required to be filed.

(5) "Material interest", for the purposes of this act, means direct or indirect ownership of ten percent or more of the total assets or capital stock of any business entity.

(6) "Person or business entities provided a grant of privilege to operate" includes state or federal chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic and spirituous liquor businesses, whether retail or wholesale, pari-mutuel wagering companies, utility companies, and any entity controlled by the public service commission or granted a franchise to operate by either a city or county government. This definition shall not apply to persons and entities so categorized merely for purposes of public notice or to certify the quality of professional or occupational services. This definition shall not apply to corporations if the majority of the outstanding capital stock of any such corporation is owned by a public officer or candidate.

(7) "Public officer" or "officer" includes:

(a) All elected public officers, executive, judicial, legislative, state, county, municipal or local.

(b) Members of boards, commissions, authorities, special taxing districts, and the head of each state agency, however selected but excluding advisory board members as herein defined.

(c) Referees, receivers and hearing examiners appointed by any agency, and judges of industrial claims.

(d) Members of the board of regents, the chancellor on the university system and the presidents of state universities, and presidents and members of boards of trustees of community colleges.

(e) Any person employed in the office of the governor or in the office of any member of the cabinet who is exempt from the career service system, except persons employed in clerical, secretarial or similar positions.

(f) The appointed secretaries, assistant secretaries, deputy secretaries, executive directors, assistant executive directors, and deputy executive directors of all state departments and, unless otherwise provided, the division directors and bureau chiefs of all departments of state government.

(g) The institute director of the mental health institutes authorized for Tampa and Miami for training and research in the mental health field.

(h) All full time state employees who, in addition to their regular duties, accept compensation for consultations with other state agencies or with other government or private entities.

(i) All sheriffs, tax collectors, tax assessors, supervisors of elections, clerks of the circuit court, chiefs of police, county managers, county administrators, county attorneys, assistant state attorneys, city managers, city attorneys, district school superintendents and appointed heads of city and county planning and zoning boards, members of school boards, members of planning boards, members of zoning boards, and members of planning and zoning boards, or any boards having jurisdiction with respect thereto.

(j) Purchasing agents for any agency or persons having the power normally conferred to purchasing agents by whatever title.

Section 3. Section 112.313, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See sec. 112.313, F.S. for present text)

112.313 Standards of conduct for public officers and employees of agencies.—

(1) No officer or employee of a state agency, or of a county, city or other political subdivision of the state, or any legislator, or legislative employee shall accept any gift, favor, or service, in excess of \$25.00 value to the recipient, that would cause a reasonably prudent person to be influenced in the discharge of official duties.

(2) Conflicts Prohibited.—No public officer or employee of an agency shall own a material interest in any business entity doing business with the agency of which he is an officer or employee, except in those cases when the business is contracted with full public competition and award is made to the lowest or best bidder.

(3) Disclosure of Conflicts.—If a public officer or employee of an agency is an officer, director, partner, proprietor, associate or general agent (other than a resident agent solely for service of process) of, or owns a material interest in, any business entity which is granted a privilege to operate, or is doing business with, an agency of which he is an officer or employee, he shall file a statement disclosing such facts within forty-five days of becoming an officer or employee or within forty-five (45) days of the acquisition of such position or of such material interest. The statement shall give the name, address and principal business activity of the business entity and shall state the position held or the fact that a material interest is owned, and the nature of said interest. A candidate for nomination to or election for any office shall file a like statement no later than noon on the tenth day after the last day to qualify. The statement shall be filed with the department of state if the individual is a state officer, employee or candidate, and shall be filed with the clerk of the circuit court of the county in which he is principally employed or a resident if he is an officer, employee or candidate for election within a county, municipality or other political subdivision of the state.

(4) No public officer or employee of an agency shall corruptly use or attempt to use his official position or perform his official duties to secure special privileges, benefits or exemptions for himself, or others.

(5) Other Employment.—No public officer or employee of an agency shall accept other employment with any business entity subject to the regulation of, or doing business with, an agency of which he is an officer or employee, nor shall an officer or employee of an agency accept other employment that will create a conflict between his private interests and the performance of his public duties, or will impede the full and faithful discharge of his public duties. Where the agency referred to is a legislative body and where regulatory power over the business entity resides in another agency, then employment with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or deemed a conflict.

(6) Disclosure or Use of Information.—No public officer or employee of an agency shall disclose information gained by reason of his official position for his personal gain or benefit, or personal gain or benefit for any other person.

Section 4. Section 112.314, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See sec. 112.314, F.S. for present text)

112.314 Additional Standards of Conduct for Legislators and Legislative Employees.—

(1) No full-time legislative employee shall be otherwise employed, except with the written permission of the presiding officer of the house by which he is employed, filed with the clerk of the house of representatives or secretary of the senate, as may be appropriate. Employees of joint committees must have the permission of the presiding officers of both houses.

(2) No public officer shall be prohibited from voting on any matter in his official capacity. However, when the matter being considered directly or indirectly inures to the public officer's particular private gain, as opposed to his private gain as a member of a special class or creates a substantial conflict between such officer's private interests and his public duties he may abstain from voting on the matter and shall file a statement explaining the conflict with the appropriate officials.

Section 5. Section 112.3145, Florida Statutes, is created to read:

112.3145 Disclosure.—

(1) A candidate for nomination or election shall file a statement of disclosure no later than twelve o'clock noon on the tenth day after the last day to qualify as a candidate. A public officer, including persons appointed or elected to serve the unexpired term of any public officer, shall file a statement of disclosure no later than twelve o'clock noon of May 15th of each year, including the May 15th following the last year a public officer is in office. Every public officer who is appointed shall file a disclosure statement, as required herein, within thirty (30) days from the date of appointment. Disclosure shall be filed with the secretary of state or the clerk of the circuit court as provided in section 112.313(3). The statement of disclosure shall include the following:

(a) Sources of income. The public officer or candidate shall disclose any sources of his net income, which total in excess of 10% of his total net income, by stating generally the nature of the business or interest providing such net income, or any other interest which such public official should reasonably believe may present a potential conflict of interest. The largest source shall be listed first and the remainder in descending order. Income from governmental salary, dividends, interest, alimony, pensions, or disability payments shall not be included in the list.

(b) Each public officer or candidate shall disclose any interest in excess of ten percent which he, his partner or business associate holds in any chartered banks, savings and loan associations, small loan companies, alcohol and spirituous liquor business, whether retail or wholesale, pari-mutuel wagering companies, utility companies, cemetery companies, insurance companies, mortgage or title insurance companies, credit unions and any entity controlled by the public service commission or granted a franchise to operate by a municipal or county government.

(c) Representation before agencies. Any public officer or candidate who represents another before an agency for a fee or commission shall list the agencies before which he appears, and the name of the client whom he represented, in the annual report subsequent to such appearance. Representation before any agency shall be deemed to include representation by such public officer or candidate, or any partner or associate of the professional firm of which he is a member and of which he has knowledge. For the purposes of this subsection, "representation before any agency" does not include appearances before any court, or appearances before judges or commissioners of industrial claims.

Section 6. Section 112.3146, Florida Statutes, 1973, is created to read:

112.3146 Public Records.—The statements required by sections 112.313, 112.314 and 112.3145 shall be public records within the meaning of section 119.01, Florida Statutes.

Section 7. Section 112.317, Florida Statutes, 1973, is amended to read:

(Substantial rewording of section. See sec. 112.317, F.S. for present text.)

112.317 Penalty.—Intentional violation of any provision of this part by an officer or employee shall constitute grounds for dismissal from employment or removal from office, or other penalty as provided by law, and shall constitute a misdemeanor and, upon conviction, shall be punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding one year.

Section 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.

Section 10. This act shall take effect on July 1, 1974.

Senators Gallen and Ware offered the following amendments to Amendment 2 which were moved by Senator Gallen and adopted:

Amendment 2a—Strike “any agency” and insert: his own agency or any agency at the same level of government as his own agency, except in ministerial matters,

Amendment 2b—On page 10, line 16 after the period insert: This provision shall not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license or operation permit to engage in a profession or business or occupation, provided it does not require substantial discretion, a variance, special consideration, a certificate of need and convenience, a license based on a quota or a franchise, of such agency.

Senator Vogt moved the following amendment to Amendment 2 which was adopted:

Amendment 2c—On page 6, line 21, strike the period and insert: or to a consultant in accordance with Chapter 287.055 Florida Statutes.

Senators Glisson and Sims offered the following amendment to Amendment 2 which was moved by Senator Glisson and failed:

Amendment 2d—On page 11, between lines 3 and 4, insert: Section 8. Any county, municipality, special district or other local government shall be exempt from the provisions of Section 5 of this act upon the adoption annually by its governing body of an ordinance or resolution to do so.

(Renumber subsequent sections)

Senator Sims moved the following amendment to Amendment 2 which failed:

Amendment 2e—On page 11, strike all of lines 4 through 9.

Senator Vogt moved the following amendment to Amendment 2 which was adopted:

Amendment 2f—On page 9, lines 26 and 27, strike “, his partner or business associate”

Senator Gallen moved the following amendment to Amendment 2 which failed:

Amendment 2g—On page 11, line 4, add new section: Any person, firm or corporation who with or without malice falsely publishes or alleges that a person has violated the provisions of this act shall be guilty of a misdemeanor in the first degree and subject to compensatory and exemplary damages.

Senator Gillespie moved the following amendment to Amendment 2 which was adopted:

Amendment 2h—On page 5, line 25, after the word “boards,” insert: city and county building inspectors,

Senator Smathers moved the following amendment to Amendment 2 which failed:

Amendment 2i—On page 9, line 26, insert: after in excess of ten per cent or in excess of \$10,000

Senator Smathers moved the following amendment to Amendment 2 which failed:

Amendment 2j—On page 9, line 17, after “in excess of 10% of his total net income” insert: or total in excess of \$10,000.

Senator Johnson moved the following amendment to Amendment 2:

Amendment 2k—On page 11, between lines 3 and 4 insert: Section 8. Any person, firm or corporation who falsely publishes or alleges that a person has violated the provisions of this act, when he knew, or in the exercise of reasonable diligence should have known, such information to be untrue, shall be liable in a civil action for compensatory and exemplary damages, and the prevailing party shall be entitled to reasonable attorneys’ fees.

(Renumber subsequent sections.)

Amendment 2k was adopted by the following vote:

Yeas—19

Childers	Johnson	Peterson	Stolzenburg
Deeb	Johnston	Pettigrew	Trask
Gallen	Lane (31st)	Sayler	Vogt
Gruber	Lewis	Scarborough	Weber
Henderson	McClain	Sims	

Nays—18

Mr. President	Glisson	Plante	Williams
Barron	Gordon	Poston	Wilson
Brantley	Graham	Smathers	Zinkil
Firestone	Lane (23rd)	Sykes	
Gillespie	Myers	Ware	

On motion by Senator Lewis the Senate reconsidered the vote by which Amendment 2k was adopted.

The question recurred on the adoption of Amendment 2k and the amendment failed.

Senator Lane (31st) moved the following amendment to Amendment 2 which was adopted:

Amendment 2l—On page 3, line 22, strike “county”

Senator Gordon moved the following amendment to Amendment 2 which was adopted:

Amendment 2m—On page 9, lines 19—21, strike “, or any other interest which such public official should reasonably believe may present a potential conflict of interest” and on page 10, line 4, strike the period following “government” and insert: , or any other interest which such public official should reasonably believe may present a potential conflict of interest.

Senator Gordon moved the following amendment to Amendment 2 which was adopted:

Amendment 2n—On page 3, strike all of lines 12 and 13 and insert: (1) “Agency” means any state, county, local or municipal governmental entity, whether executive, judicial, or legislative, and therein any department, division, bureau, commission, authority, or special taxing district with authority to exercise the sovereign power of the state.

Senator Ware moved the following amendment to Amendment 2 which was adopted:

Amendment 2o—On page 4, lines 16-17-18-19, strike all after the period

Amendment 2 as amended was adopted by the following vote:

Yeas—27

Barron	Gruber	Myers	Stolzenburg
Brantley	Henderson	Peterson	Sykes
Childers	Johnson	Plante	Trask
Deeb	Lane (31st)	Poston	Vogt
de la Parte	Lane (23rd)	Sayler	Ware
Gallen	Lewis	Scarborough	Weber
Gordon	McClain	Sims	

Nays—12

Mr. President	Glisson	Pettigrew	Wilson
Firestone	Graham	Smathers	Winn
Gillespie	Johnston	Williams	Zinkil

The Committee on Governmental Operations offered the following amendment which was moved by Senator Gordon:

Amendment 3—On page 1, strike the title and insert a new title to read: A bill to be entitled An act relating to public officers and employees and candidates for public office; amending §§112.311, 112.312, 112.313, 112.314, 112.316 and 112.317, Florida Statutes, 1973, and creating §§112.3145 and 112.3155, Florida Statutes, providing legislative intent; providing definitions; establishing standards of conduct for public officers and employees, candidates, advisory board members, legislators and legislative employees, and judicial officers; requiring disclosure of financial interests by source and percentage by public officers and candidates; including spouse and minor child within the definition of public officer for purposes of financial disclosure; providing for forms and procedures for such disclosures; providing for construction of part III of chapter 112, Florida Statutes, providing for enforcement; providing for the contingent repeal of section 112.318, Florida Statutes, 1973, relating to procedures on complaints of violation of part III of chapter 112, Florida Statutes; creating section 112.319, Florida Statutes, providing filing requirements; providing severability; providing an effective date.

Senators Gordon and Myers offered the following substitute amendment which was moved by Senator Gordon and adopted:

Amendment 4—On page 1, line 3, strike the entire title of the bill and insert: A bill to be entitled an act relating to financial disclosure required of public officers and employees; amending section 112.311, Florida Statutes, to provide legislative intent; amending section 112.312, Florida Statutes, providing definitions; amending section 112.313, Florida Statutes, providing standards of conduct; amending section 112.314, Florida Statutes, providing additional standards for legislators and legislative employees; creating section 112.3145, Florida Statutes, requiring disclosure of specified financial interests; creating section 112.346, Florida Statutes, providing that statements required by the act are public records; providing penalties; providing severability; providing an effective date.

On motion by Senator Gordon, by two-thirds vote CS for CS for HB 3418 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—34

Mr. President	Gordon	Myers	Sykes
Barron	Graham	Peterson	Trask
Brantley	Gruber	Plante	Vogt
Childers	Henderson	Poston	Ware
Deeb	Johnson	Sayler	Wilson
de la Parte	Johnston	Scarborough	Winn
Firestone	Lane (31st)	Sims	Zinkil
Gillespie	Lane (23rd)	Smathers	
Glisson	McClain	Stolzenburg	

Nays—6

Gallen	Pettigrew	Weber	Williams
Lewis	Saunders		

Explanation of vote

I voted for CS for CS for HB 3418 as amended even though I do not feel this is strong enough to fully restore the faith and confidence of the general public, I feel it is the best we can get at this time following the vote on the substitute amendment.

William G. Zinkil, Sr., 32nd District

Senator Saunders moved that the Senate reconsider the vote by which—

HB 2892—A bill to be entitled An act relating to the State University System, authorizing the acceptance of credit cards in payment for goods, services, tuition and fees; providing certain restrictions; providing for the establishment of accounts in credit card banks, amending §240.042, Florida Statutes, 1971, creating new paragraph 240.042(2)(p), providing an effective date.

—as amended passed this day and the Senate reconsidered.

Senator Saunders moved the following amendment to Amendment 1 which was adopted by two-thirds vote:

Amendment 1a—On page 1, strike all of lines 25 through 30 and insert: *shall be given and no service charge assessed; and the board of regents is further authorized to establish accounts in credit card banks for the deposit of credit card sales invoices, further providing however, that use of credit cards shall be limited to the purchase of goods and services offered only by the state university system and not in competition with private business.*

Section 2. This act shall take effect July 1, 1974.

Amendment 1 as amended was adopted.

On motion by Senator Saunders, HB 2892 as further amended was read by title, passed and certified to the House. The vote was:

Yeas—36

Mr. President	Gordon	Peterson	Stolzenburg
Brantley	Graham	Pettigrew	Sykes
Childers	Gruber	Plante	Trask
Deeb	Henderson	Poston	Vogt
de la Parte	Johnson	Saunders	Ware
Firestone	Lane (23rd)	Sayler	Weber
Gallen	Lewis	Scarborough	Williams
Gillespie	McClain	Sims	Winn
Glisson	Myers	Smathers	Zinkil

Nays—None

On motion by Senator Scarborough, HB 3242 was withdrawn from the Committee on Judiciary by two-thirds vote and placed on the calendar.

On motion by Senator Saunders, Rule 2.5 was waived and the Committee on Way and Means was granted permission to consider CS for SB 807, Senate Bills 284 and 273, CS for HB 3909 and House Bills 3504, 4154, 4066, 3324 and 2352 this day.

On point of order by Senator Saunders HB 3924 was removed from the Calendar and referred to the Committee on Ways and Means pursuant to Rule 4.6.

On motion by Senator Saunders, Rule 2.5 was waived and the Committee on Ways and Means was granted permission to consider HB 3924 this day.

On motion by Senator Ware, Rule 2.5 was waived and the Committee on Ways and Means was granted permission to consider SB 977 this day.

On motion by Senator Barron, the rules were waived and time of adjournment was extended until 5:30 p.m.

On motion by Senator Barron, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed HJR 3911 by the required Constitutional three-fifths vote of the membership of the House as amended by the Conference Committee Report.

Allen Morris, Clerk

By the Committee on Judiciary—

HJR 3911—A joint resolution proposing an amendment to section 12 of Article V of the State Constitution relating to the judicial qualifications commission; providing that the commission shall have the power to investigate and recommend removal or a reprimand of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, demonstrates a present unfitness to hold office; providing that the commission shall adopt rules which may be repealed by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring; providing that the commission may by majority vote recommend the temporary suspension of any justice or judge against whom formal charges are pending; providing that if the supreme court suspends, all proceedings shall be public, otherwise all proceedings shall be confidential until a recommendation is filed by the commission; providing that the commission shall have access to all information from all executive, legislative and judicial agencies, including grand juries; providing that the commission shall make available information for use in consideration of impeachment or suspension.

CONFERENCE COMMITTEE REPORT ON HJR 3911

The Honorable Mallory E. Horne
President of the Senate

May 24, 1974

The Honorable T. Terrell Sessums
Speaker, House of Representatives

Sirs:

Your Conference Committee on the disagreeing votes of the two houses on Senate Amendments to House Joint Resolution 3911, same being:

A joint resolution proposing an amendment to Section 12 of Article V of the State Constitution relating to the judicial qualifications commission; providing that the commission shall have the power to investigate and recommend removal or a reprimand of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, demonstrates a present unfitness to hold office; providing that the commission shall adopt rules which may be repealed by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring; providing that the commission may by majority vote recommend the temporary suspension of any justice or judge against whom formal charges are pending; providing that if the supreme court suspends, all proceedings shall be public, otherwise all proceedings shall be confidential until a recommendation is filed by the commission; providing that the commission shall have access to all information from all executive, legislative and judicial agencies, including grand juries; providing that the commission shall make available information for use in consideration of impeachment or suspension.

having met, and after full and free conference, have agreed to recommend, and do recommend to their respective Houses as follows:

1. That the Senate recede from its amendments 1 and 2.
2. That the Senate and House of Representatives adopt the Conference Committee amendments attached hereto; and by reference made a part of this report.
3. That the Senate and House of Representatives pass House Joint Resolution 3911 as amended by said Conference Committee amendments.

Kenneth M. Myers
Dan Scarborough
J. H. Williams

Jeff D. Gautier, Chairman
Granville H. Crabtree, Jr.
John R. Forbes (dissenting)

Managers on the part of the Senate

Managers on the part of the House of Representatives

Conference Committee Amendment 1—On page 2, line 6, strike everything after the resolving clause and insert: That the amendment to section 12 of Article V of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November, 1974:

Article V

Section 12. DISCIPLINE; REMOVAL AND RETIREMENT.—

~~(a) There shall be a judicial qualifications commission composed of:~~

(a) There shall be a judicial qualifications commission vested with jurisdiction to investigate and recommend to the Supreme Court of Florida the removal from office of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section) demonstrates a present unfitness to hold office, and to investigate and recommend the reprimand of a justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966 (without regard to the effective date of this section), warrants such a reprimand. The commission shall be composed of:

(1) Two judges of district courts of appeal selected by the judges of those courts, two circuit judges selected by the judges of the circuit courts and two judges of county courts selected by the judges of those courts;

(2) Two electors who reside in the state, who are members of the bar of Florida, and who shall be chosen by the governing body of the bar of Florida; and

(3) Five electors who reside in the state, who have never held judicial office or been members of the bar of Florida, and who shall be appointed by the governor.

(b) The members of the judicial qualifications commission shall serve staggered terms, not to exceed six years, as prescribed by general law. No member of the commission except a justice or judge shall be eligible for state judicial office so long as he is a member of the commission and for a period of two years thereafter. No member of the commission shall hold office in a political party or participate in any campaign for judicial office or hold public office; provided that a judge may participate in his own campaign for judicial office and hold that office. The commission shall elect one of its members as its chairman.

(c) Members of the judicial qualifications commission not subject to impeachment shall be subject to removal from the commission pursuant to the provisions of Article IV, Section 7, Florida Constitution.

~~(e) The supreme court shall adopt rules regulating proceedings of the commission, the filling of vacancies by the appointing authorities and the temporary replacement of disqualified or incapacitated members. After a recommendation of removal of any justice or judge, the record of the proceedings before the commission shall be made public.~~

(d) The commission shall adopt rules regulating its proceedings, the filling of vacancies by the appointing authorities, the disqualification of members, and the temporary replacement of disqualified or incapacitated members. The commission's rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. After a recommendation of removal or public reprimand of any justice or judge, the record of the proceedings before the commission shall be made public. The commission may with seven members concurring recommend to the supreme court the temporary suspension of any justice or judge against whom formal charges are pending and in the event the supreme court suspends such justice or judge all proceedings before the commission and all hearings shall be public. Otherwise, all proceedings before the commission shall be confidential until a recommendation is filed with the clerk of the supreme court recommending removal or public reprimand at which time such proceedings shall become public record.

(e) The commission shall have access to all information from all executive, legislative and judicial agencies, subject to the rules of the commission. On request of the speaker of the house of representatives or the governor, the commission shall make available information for use in consideration of impeachment or suspension, respectively.

~~(d)~~ (f) Upon recommendation of two-thirds of the members of the judicial qualifications commission, the supreme court may order that the justice or judge be disciplined by appropriate reprimand, or be removed from office with ter-

mination of compensation for willful or persistent failure to perform his duties or for other conduct unbecoming a member of the judiciary, or be involuntarily retired for any permanent disability that seriously interferes with the performance of his duties. After the filing of a formal proceeding and upon request of the commission, the supreme court may suspend the justice or judge from office, with or without compensation, pending final determination of the inquiry.

(e) (g) The power of removal conferred by this section shall be both alternative and cumulative to the power of impeachment and to the power of suspension by the governor and removal by the senate.

SCHEDULE

(1) The terms of office of the present members of the judicial qualifications commission shall expire on January 1, 1975 and new members shall be appointed to serve the following staggered terms:

(a) Group I.—The terms of five members, composed of two electors as set forth in §12(a)(3) of Article V, one member of the bar of Florida as set forth in §12(a)(2) of Article V, one judge from the district courts of appeal and one circuit judge as set forth in §12(a)(1) of Article V, shall expire on December 31, 1976.

(b) Group II.—The terms of four members, composed of one elector as set forth in §12(a)(3) of Article V, one member of the bar of Florida as set forth in §12(a)(2) of Article V, one circuit judge and one county judge as set forth in §12(a)(1) of Article V shall expire on December 31, 1978.

(c) Group III.—The terms of four members, composed of two electors as set forth in §12(a)(3) of Article V, one judge from the district courts of appeal and one county judge as set forth in §12(a)(1) of Article V, shall expire on December 31, 1980.

(2) The amendment to section 12 of Article V provided herein and the provisions of this schedule shall take effect January 1, 1975.

Be It Further Resolved that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendment proposed herein shall appear on the ballot as follows:

An amendment to section 12 of Article V of the State Constitution to permit the judicial qualifications commission to investigate and recommend to the supreme court the removal or reprimand of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, demonstrates a present unfitness to hold office or warrants a reprimand, to provide a procedure for the removal of members, to permit the commission to adopt rules regulating its proceedings which rules may be repealed by general law enacted by majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring, to require all proceedings before the commission to be confidential until a recommendation is filed by the commission or unless the supreme court suspends a justice or judge as recommended by a vote of seven members of the commission concurring, then all proceedings shall be public, further permitting the commission access to all information from all executive, legislative, and judicial agencies, and requiring the commission to make available information for use in consideration of impeachment or suspension when requested by the speaker of the house of representatives or the governor, respectively. Also provides for appointment of a new commission.

Conference Committee Amendment 2—On pages 1 and 2 in title, strike all of title and insert the following:

A joint resolution proposing an amendment to section 12 of Article V of the State Constitution relating to the judicial qualifications commission; providing that the commission shall have the power to investigate and recommend removal or a reprimand of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, demonstrates a present unfitness to hold office; providing for the removal of members of the commission; providing that the commission shall adopt rules which may be repealed by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring; providing that the commission may with seven members concurring recommend the temporary suspension of

any justice or judge against whom formal charges are pending; providing that if the supreme court suspends, all proceedings shall be public, otherwise all proceedings shall be confidential until a recommendation is filed by the commission; providing that the commission shall have access to all information from all executive, legislative and judicial agencies; providing that the commission shall make available information for use in consideration of impeachment or suspension; providing for removal of members of the commission; providing for a new commission.

On motion by Senator Myers the Conference Committee Report was read.

On motion by Senator Myers the Report of the Conference Committee as an entirety was adopted.

On motion by Senator Myers, HJR 3911 passed by the required constitutional three-fifths vote of the membership of the Senate as recommended and was certified to the House. The vote was:

Yeas—36

Mr. President	Graham	Myers	Sykes
Brantley	Gruber	Peterson	Trask
Childers	Henderson	Pettigrew	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Saylor	Weber
Firestone	Lane (31st)	Scarborough	Williams
Gillespie	Lane (23rd)	Sims	Wilson
Glisson	Lewis	Smathers	Winn
Gordon	McClain	Stolzenburg	Zinkl

Nays—None

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the Speaker has appointed Representatives Shreve, Blackburn, David Clark, Clem, and Gautier as the Conferees on the part of the House for CS for HB 2179.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Sessums, Conway, Johnson and Nelson as the Conferees on the part of the House on HB 1145.

Allen Morris, Clerk

Conference Committee Conferees on HB 1145

The President announced the appointment of Senators Graham, Smathers, Peterson and Glisson as conferees on the part of the Senate on HB 1145.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed—

SB 497 SB 498 SB 496

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has adopted SCR 662.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed—

SB 1110 CS for SB 374

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed SB 392.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed—

SB 276 SB 642 SB 256 SB 102

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed HB 4154 and requests the concurrence of the Senate.

Allen Morris Clerk

By the Committee on Retirement, Personnel & Claims—

HB 4154—A bill to be entitled An act relating to the Florida retirement system; amending §121.021(15), Florida Statutes, 1973, and creating §121.022, Florida Statutes, redefining "special risk member"; stating legislative intent; providing for the designation of special risk members and the removal of such designation; providing instructions for calculating benefits; providing for appeals to the career service commission created by chapter 110, Florida Statutes, or such other appeals body that may be created by law; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

The Honorable Mallory E. Horne, President May 27, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 4042 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Tillman and others—

HB 4042—A bill to be entitled An act relating to DeSoto and Charlotte counties; creating and establishing Deer Run Improvement District in said counties; fixing its boundaries; providing for the management and government of the affairs of the district by a board of supervisors; providing for election, qualification, organization, term of office and compensation of the board of supervisors; providing for the filling of vacancies; providing for meetings of the board of supervisors and other procedures; providing for elections, the qualification of electors, registration of voters, and election procedures; providing for the powers and duties of the board of supervisors to carry out the purposes of the district; providing powers and duties of the improvement district, among them the ownership, acquisition, mortgage, lease, and disposal of property and facilities, the levy of ad valorem taxes, the investment of surplus funds, the borrowing of money, the regulation of water use and of sewers and other sanitary facilities, pest controls, the furnishing of services and facilities of all kinds, among them water and sewer systems, airport facilities, mass transit system, communication system, parking facilities, cultural, recreational and educational facilities, fire protection, conservation areas and sanctuaries, streets, sidewalks, street lighting and related facilities, drainage, reclamation, irrigation, water and flood control, erosion control and other projects, and the financing of projects and activities through bonds and other obligations; providing power to issue general obligation bonds, revenue bonds, and refunding bonds; providing for the pledge of taxes, assessments, revenues, and other properties as security to the payment of bonds; providing for the lien of pledged revenues, taxes and assessments; providing for the making of special assessments for improvements and the procedure to be followed in connection therewith; providing authority to set rates, fees, and other charges, and

to make agreements and contracts for services and pledge the same as security for district bonds, providing for the construction of district projects with or without competitive bidding; providing severability; providing effective date.

Evidence of notice and publication was established by the Senate as to HB 4042.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 1911 and requests the Senate to recede.

By the Committee on Judiciary—

HB 1911—A bill to be entitled An act relating to jurisdiction in landlord and tenant cases; amending §26.012, (2) (g), Florida Statutes (1972), to remove jurisdiction in landlord and tenant possession cases from the circuit court; amending §34.011, Florida Statutes, to vest jurisdiction in landlord and tenant possession cases exclusively in the county court; providing an effective date.

Allen Morris, Clerk

Amendment 1—On page 1, line 28, strike "shall have exclusive jurisdiction" and insert: or circuit courts may exercise jurisdiction

Amendment 2—On page 1, lines 6—11, strike everything after the "comma" and insert: to vest jurisdiction in landlord and tenant possession cases in the county or circuit court; amending §34.011, Florida Statutes, to vest jurisdiction in landlord and tenant possession cases in the county or circuit court; providing an effective date.

On motions by Senator Scarborough, the Senate refused to recede from Senate Amendments 1 and 2 to HB 1911 and again requested the House to concur.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1, 3 and 4 and, concurred in same as amended and passed HB 1538 (cs), as further amended,

By the Committee on Criminal Justice and Representative Hair and others—

HB 1538 (cs)—A bill to be entitled An act relating to arrest records; providing certain procedures for expunging records if person is acquitted or released without being adjudicated guilty; providing for retention of nonpublic records by department of law enforcement; providing restoration of status; providing exceptions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1 to Senate Amendment 1—On page 1, line 10, strike beginning with the word provided on line 10, the remainder of said sentence and insert the following: Provided, however, the Court shall require that non-public records be retained by the Department of Law Enforcement and shall be made available by said Department only to Law Enforcement Agencies in the event of a future investigation of said person relative to a pending charge, indictment or information upon or against said person for an act which, if committed, would be an offense similar in nature to the offense for which said person had been charged and not found guilty. Provided, further, that the Court shall not enter an order expunging the records as above provided where there are several acts, or said person has been charged with several offenses originating out of or related to the offense or offenses for which said person had been charged and not found guilty, where the charge and adjudication of non-guilt did not include all such charges or all such several acts.

House Amendment 2 to Senate amendment 1—On page 1, lines 1—5, strike the entire sentence and insert: A person, not having previously been convicted of a criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, if he was acquitted or released without being adjudicated guilty may file a motion with the court wherein the charge was brought to expunge the record of arrest from the official records of the arresting authority.

House Amendment 1 to Senate Amendment 3—On page 1, line 1, strike the entire amendment.

House Amendment 2 to Senate Amendment 4—On page 1, in the title, line 1, strike the entire amendment

On motions by Senator de la Parte, the Senate concurred in House Amendment 1 to Senate Amendment 1, House Amendment 2 to Senate Amendment 1, House Amendment 1 to Senate Amendment 3 and House Amendment 2 to Senate Amendment 4.

HB 1538 (cs) passed as further amended and was certified to the House. The vote was:

Yeas—29

Mr. President	Graham	Plante	Ware
Brantley	Henderson	Poston	Williams
Deeb	Johnson	Scarborough	Wilson
de la Parte	Johnston	Sims	Winn
Firestone	Lane (23rd)	Smathers	Zinkil
Gillespie	Lewis	Stolzenburg	
Glisson	McClain	Sykes	
Gordon	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Gruber, Peterson, Childers and Vogt were recorded as voting yea.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has reconsidered and returns as requested—

HB 3020—A bill to be entitled An act relating to the Florida retirement system; amending §2(1)(b) and (c), (5)(a) and (6)(a), chapter 72-345, Laws of Florida, as amended by chapter 72-359, Laws of Florida, appearing as §121.052(1)(b) and (c), (5)(a) and (6)(a), Florida Statutes, 1972 Supplement; providing for participation by county court judges in the elected state officers class of the Florida retirement system; providing an effective date.

Allen Morris, Clerk

On motion by Senator Ware, the Senate reconsidered the vote by which HB 3020, contained in the above message, passed on May 24.

Senator Ware moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 2, lines 4 and 19, strike "January 1, 1975" and insert: *October 1, 1974*

Amendment 2—On page 3, line 16, strike all of line 16 and insert: *the general revenue fund. A county court judge may purchase additional retirement credit for service prior to January 1, 1978 as a county judge, provided an amount equal to the member's contributions and interest payments shall be paid to the system trust fund by the county or by the individual.*

Amendment 3—On page 3, line 12, strike "6.5" and insert: 4

Amendment 4—On page 4, line 6, strike "January 1, 1975" and insert: *October 1, 1974*

On motion by Senator Ware, HB 3020 as amended was read by title, passed and certified to the House. The vote was:

Yeas—31

Mr. President	Gruber	Peterson	Sykes
Brantley	Henderson	Pettigrew	Trask
Deeb	Johnson	Plante	Weber
Firestone	Johnston	Poston	Williams
Gallen	Lane (31st)	Sayler	Wilson
Gillespie	Lane (23rd)	Scarborough	Winn
Glisson	Lewis	Smathers	Zinkil
Graham	McClain	Stolzenburg	

Nays—None

By unanimous consent Senators Vogt and Childers were recorded as voting yea.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives again refused to recede from House Amendments 1 and 2 to SB 79 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Dubbin, Ogden, and Malloy as the Conferees on the part of the House.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Myers—

SB 722—A bill to be entitled An act relating to alcoholism; creating subsection 396.032(11), Florida Statutes, providing a definition for mental health professional; amending §§396.072 and 396.102, Florida Statutes; providing for clarity in definitions; clarifying responsibilities of public safety officers; authorizing public safety officers to detain alcoholics in protective custody for designated periods in municipal or county jails or other detention facilities; requiring the initiation of treatment by the appropriate treatment resources; clarifying procedures regarding examination at the treatment resource; revising involuntary commitment procedures; authorizing hospitalization for mental illness as an alternative to treatment for alcoholism in appropriate cases; authorizing alternative mental health professionals to make the required examinations under Section 396.102, Florida Statutes; amending Section 396.151, Florida Statutes, relating to involuntary treatment; amending the effective date of Section 396.161, Florida Statutes, to provide that said section shall take effect January 1, 1975; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1(a), lines 1—9, strike all of lines 1—9 and renumber subsequent sections

Amendment 2—On page 4, line 27, strike "person" and insert: *physician*

Amendment (3)—On page 6, line 8, after "physician" insert: either in person or by an affidavit,

On motions by Senator Myers, the Senate concurred in House amendments 1, 2 and 3 to SB 722.

SB 722 passed as further amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—35

Mr. President	Graham	Myers	Sykes
Barron	Gruber	Peterson	Vogt
Brantley	Henderson	Plante	Ware
Childers	Johnson	Poston	Weber
de la Parte	Johnston	Sayler	Williams
Firestone	Lane (31st)	Scarborough	Wilson
Gallen	Lane (23rd)	Sims	Winn
Gillespie	Lewis	Smathers	Zinkil
Gordon	McClain	Stolzenburg	

Nays—None

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1, 2, 3 and 4 and requests the Senate to recede.

By Representative Kutun and others—

HB 580—A bill to be entitled An act relating to public school system personnel; amending §231.29(2)(a), Florida Statutes, 1972 Supplement, to provide that each individual on annual contract status in any school district in the state shall have his performance assessed at least once a year, while those on continuing contract shall be assessed in depth at least once every three (3) years; providing an effective date.

Allen Morris, Clerk

Amendment 1—On page 2, line 4, strike the period(.) and insert: , and the results of the assessment shall be reviewed with the individual.

Amendment 2—On page 1, line 29, strike all of subsection (a) and insert:

(a) Assessment for each individual shall be made at least once a year. Such assessment of instructional personnel shall include the following:

(1) An annual written notice of assigned duties to members of the instructional staff by the principal or his designee. In evaluating the competencies and performance of a member of the instructional staff, primary assessment shall be in terms of his performance of the assigned duties and responsibilities.

(2) The principal or his designee shall observe each member of the instructional staff in the classroom in the performance of his duties at least once during the school year. The principal or his designee shall meet and review the evaluation with the individual teacher evaluated who shall acknowledge such evaluation with his signature and any written comments he desires before it is placed in his record. The purpose of such meeting shall be to discuss ways in which the teacher may improve his teaching abilities.

(3) Criteria for evaluation where appropriate shall include:

(a) The degree to which instruction meets the individual needs of each student and the objectives of the subject areas for which the teacher is responsible.

(b) The degree to which the teacher has remained current in his field of instruction.

(c) The degree to which the teacher uses teaching methods appropriate to the course and the needs of students.

(d) The degree to which a teacher is able to create an atmosphere which stimulates the desire to learn in students and encourages each student to excel to the extent of his abilities.

(e) The adherence of the teacher to accepted standards of professional behavior in meeting his responsibilities to his students.

(4) The principal shall report to the superintendent and school board on the aggregate results of the evaluation of instructional personnel. Such report shall include but not be limited to an analysis of areas in which additional academic degrees, course-work, inservice training, or experience in or out of school have contributed to the development of teaching skills. The report shall also include recommendations on ways in which instruction and the evaluation process can be improved for the next year. A summary of the report shall be included in the annual report of school progress.

Section 2. Paragraphs (d) and (e) of subsection (2) of section 231.29, Florida Statutes, are repealed.

Section 3. This act shall take effect on July 1, 1974.

Amendment 3—On page 1 in the title, lines 7—13, strike all of lines 7—13 and insert:

specified criteria shall be used for the evaluation of instructional personnel; providing for a report and recommendations; repealing paragraphs (d) and (e) of subsection (2) of section 231.29, Florida Statutes; providing an effective date.

Amendment 4—On page 1, lines 6 and 18, strike 1972 supplement

On motions by Senator Graham the Senate refused to recede from Senate Amendments 1, 2, 3 and 4 to HB 580 and requested a conference committee be appointed.

The Honorable Mallory E. Horne, President May 28, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 3 and has amended Senate Amendment 2 and concurred in same as amended and passed HB 1955, as further amended,

By the Committee on Finance & Taxation—

HB 1955—A bill to be entitled An act relating to the mailing of motor vehicle license plates and registrations; amending §320.031(2), Florida Statutes; providing a fee; providing an effective date.

and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment (2) to Senate Amendment (2)—Insert: Section 2.

The fee annually charged for the sales of "68" series tags in any county shall be deposited with the tax collector for the county where the sale is consummated for that county's use and the department shall make "68" tags available in all counties.

(renumber remaining section)

On motion by Senator Stolzenburg, the Senate concurred in the House amendment to Senate Amendment 2 to HB 1955.

HB 1955 passed as further amended and was certified to the House. The vote was:

Yeas—36

Mr. President	Gordon	McClain	Stolzenburg
Brantley	Graham	Peterson	Sykes
Childers	Gruber	Pettigrew	Trask
Deeb	Henderson	Plante	Vogt
de la Parte	Johnson	Poston	Ware
Firestone	Johnston	Saylor	Williams
Gallen	Lane (31st)	Scarborough	Wilson
Gillespie	Lane (23rd)	Sims	Winn
Glisson	Lewis	Smathers	Zinkl

Nays—None

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended—

HB 3177 CS for **HB 3732**

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Conway and Nuckolls—

HB 3177—A bill to be entitled An act relating to education; amending Section 229.053 (1), Florida Statutes, relating to the rule-making authority of the state board of education; amending Section 240.031 (1), Florida Statutes, relating to state board of education responsibilities for higher education; amending Section 240.042 (2)(a), Florida Statutes, relating to rule-making powers of the board of regents; providing an effective date.

—was read the first time by title and referred to the Committee on Education.

By the Committee on Commerce and Representative Malloy—

CS for HB 3732—A bill to be entitled An act relating to the department of professional and occupational regulation; setting forth legislative findings and intent; adding subsections (13), (14) and (15) to §20.30, Florida Statutes, 1973, providing

for the establishment of continuing education programs by all boards and commissions within the department; providing for the licensing of an applicant who has been licensed under the laws of a foreign country; providing for the method of issuing a license; providing an effective date.

—was read the first time by title and placed on the calendar.

The Honorable Mallory E. Horne, President May 29, 1974

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments to House Amendments 1 and 2 to SB 171, and requests the Senate to recede, and in the event the Senate refuses to recede requests a Conference Committee.

Allen Morris, Clerk

By the Committee on Transportation—

SB 171—A bill to be entitled An act relating to operation of a motor vehicle while under the influence of alcohol; amending §322.262(2)(d), Florida Statutes; providing basis for determination of percent of alcohol in blood; providing an effective date.

House Amendment (1)—On page 1, strike everything after the enacting clause and insert the following:

Section 1. Section 316.028, Florida Statutes, 1973, is amended to read:

316.028 Driving while under the influence of alcoholic beverages, model glue, or controlled substances.—

(1) It is unlawful and punishable as provided in subsection (2) for any person who is under the influence of alcoholic beverages, model glue, or any substance controlled under chapter 893, when affected to the extent that his normal faculties are impaired, to drive or be in the actual physical control of any vehicle within this state.

(2) Any person who is convicted of a violation of subsection (1) ~~this section~~ shall be punished:

(a) For first conviction thereof, by imprisonment for not more than 6 months or by a fine of not less than \$25 or more than \$500, or by both such fine and imprisonment.

(b) For a second conviction within a period of three years from the date of a prior conviction for violation of this section, by imprisonment for not less than 10 days nor more than 6 months and, in the discretion of the court, a fine of not more than \$500.

(c) For a third or subsequent conviction within a period of five years from the date of conviction of the first of three or more convictions for violations of this section, by imprisonment for not less than 30 days nor more than 12 months and, in the discretion of the court, a fine of not more than \$500.

(d) *Notwithstanding any other penalty provisions of this act, at the discretion of the court, any person convicted of violating this section may be required to attend a driver improvement training course specified by the court in addition to, or in place of any fines imposed under this section.*

(3) It is unlawful and punishable as provided in subsection (4) for any person with a blood alcohol level of 0.08 percent or above to drive or be in actual physical control of any vehicle within this state.

(4) Any person who is convicted of a violation of subsection (3) of this section shall be punished:

(a) For first conviction thereof, by imprisonment for not more than ninety (90) days or by a fine of not more than two hundred fifty dollars (\$250), or by both such fine and imprisonment.

(b) For a second conviction within a period of three (3) years from the date of a prior conviction for violation of this section, by imprisonment for not less than ten (10) days nor more than six (6) months and, in the discretion of the court, a fine of not more than five hundred dollars (\$500).

(c) For a third or subsequent conviction within a period of five (5) years from the date of conviction of the first of three (3) or more convictions for violations of this section, by im-

prisonment for not less than thirty (30) days nor more than twelve (12) months and, in the discretion of the court, a fine of not more than five hundred dollars (\$500).

Section 2. Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of subsection (1) of section 322.261, Florida Statutes, 1973, are redesignated as paragraphs (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and a new paragraph (b) is added to said subsection to read:

322.261 Suspension of license; chemical test for intoxication.—

(1) (a) Any person who shall accept the privilege extended by the laws of this state of operating a motor vehicle within this state shall by so operating such vehicle be deemed to have given his consent to submit to an approved chemical test of his breath for the purpose of determining the alcoholic content of his blood if he is lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of alcoholic beverages. The test shall be incidental to a lawful arrest and administered at the request of a peace officer having reasonable cause to believe such person was driving a motor vehicle within this state while under the influence of alcoholic beverages. Such person shall be told that his failure to submit to such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of three (3) months.

(b) *Notwithstanding the provisions of paragraph (a), a law enforcement officer may, with the operators consent, give a prearrest breath test for the purpose of determining if said person is in violation of §316.028, but the taking of such prearrest breath test shall not be deemed a compliance with the provisions of paragraph (a).*

Section 3. Subsection (2) of section 322.262, Florida Statutes, 1973, is amended to read:

322.262 Presumption of intoxication; testing methods.—

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, or in actual physical control of, a vehicle while under the influence of alcoholic beverages, when affected to the extent that his normal faculties were impaired, the results of any test administered in accordance with §322.261 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood or breath shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired, and ~~but~~ such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired. *However, such person who has a blood alcohol level of 0.08 percent or above shall be guilty of driving or being in actual physical control of a motor vehicle with an unlawful blood alcohol level.*

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(d) Percent by weight of alcohol in the blood shall be based upon ~~grams milligrams~~ *milligrams* of alcohol per one hundred ~~milliliters~~ *milliliters* eubic centimeters of blood.

(e) The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(3) Chemical analyses of the person's blood or breath, in order to be considered valid under the provisions of this section, must have been performed according to methods approved by

the division of health of the department of health and rehabilitative services and by an individual possessing a valid permit issued by the division of health for this purpose. The division of health is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the division.

(4) Any person charged or tested under the provisions of §322.261 and this section, whether in a municipality or not, will be entitled to a trial by jury on demand. In the event the person so charged is arraigned in a municipal court and demands trial by jury, the municipality will either set up the proper procedure to provide a trial by jury or transfer the cause to a court of competent jurisdiction in the county in which the municipality is located.

Section 4. Paragraph (b) of subsection (1) of section 322-264, Florida Statutes, 1973, is amended to read:

322.264 Habitual traffic offender defined.—An "habitual traffic offender" is any person whose record, as maintained by the department of highway safety and motor vehicles, shows that such person has accumulated the convictions for separate offenses described in subsections (1), (2), and (3), committed within a five-year period:

(1) Three or more convictions, singly or in combination, of any of the following offenses arising out of separate acts:

(b) Driving a motor vehicle or being in actual physical control while having an unlawful blood alcohol level or while under the influence of alcoholic beverages or any substance controlled under chapter 893;

In computing the number of convictions, all convictions during the five years previous to July 1, 1972, will be used, provided at least one conviction occurs after that date. The fact that previous convictions may have resulted in suspension or revocation under another section shall not exempt them from being used for suspension or revocation under this section as an habitual offender.

Section 5. Subsection (2) of section 322.28, Florida Statutes, 1973, is amended to read:

322.28 Period of suspension or revocation.—

(2) In prosecutions for the offense of driving a motor vehicle with an unlawful blood alcohol level as defined in §316.028(3) or while under the influence of alcoholic beverages to the extent that normal faculties are impaired, as defined in §316.028(1), while under the influence of intoxicating liquor, the following provisions shall apply:

(a) Upon conviction of a driver, the court, along with imposing sentence, shall revoke the driver's license or driving privilege of the person so convicted and shall prescribe the period of such revocation in accordance with the following provisions:

1. Upon first conviction of the offense of driving with an unlawful blood alcohol level as described in §316.028(3), the driver's license or privilege shall be revoked for not less than thirty (30) days nor more than ninety (90) days; and for the first conviction of the offense of driving while under the influence as described in section 316.028(1), the driver's license or privilege shall be revoked for not less than ninety (90) days nor more than one (1) year; except that the court may as part of the sentence restrict the driver's license or privilege to such driving required to and from work and any necessary on-the-job driving required by the employer or occupation, provided however, if such restriction is a part of the sentence, the court shall require the defendant to enroll in and successfully complete a driver improvement course for rehabilitation of drinking drivers and any necessary driving for completion of such drinking driver rehabilitation course shall be allowed under the license restriction. No pleasure, recreational, or other driving shall be permitted by such restriction, and any conviction for violation of such restriction shall be punishable by mandatory imprisonment for a period of ten (10) days and revocation of the driver's license or privilege for the period imposed in the original sentence; the driver's license or privilege shall be revoked for not less than three months nor more than twelve months.

2. Upon a second conviction within a period of five years from the date of a prior conviction for a violation of the provisions of subsections (1) or (3) of §316.028, or a combination

of said subsections, said offense, the driver's license or privilege shall be revoked for not less than six months nor more than twenty-four months.

3. Upon a third or subsequent conviction within a period of five (5) ~~ten~~ years from the date of conviction of the first of three or more convictions for the violation of the provisions of subsections (1) or (3) of §316.028, or a combination of said subsections, for said offense, the driver's license or privilege shall be revoked for not less than one year nor more than five years as provided in §322.27(5).

(b) If the period of revocation shall not be specified by the court at the time of imposing sentence or within thirty days thereafter, the department shall forthwith revoke the driver's license or privilege for the maximum period applicable under subsection (2)(a). The driver may, within thirty days of such revocation by the department, petition the court for further hearing on the period of revocation and the court shall be authorized in such case at its discretion to reopen the case and to determine the period of revocation within the limits specified in said subsection (2)(a).

(c) Any person having his license revoked or suspended by the department may during the period of said revocation or suspension apply to the department for review of said revocation or suspension and restoration of his driving privileges. Upon receipt of said application the department shall provide for a hearing after notice to said applicant within thirty days and may after said hearing and such investigation as may be made, restore the driving privileges subject to such conditions and restrictions as the department may deem proper which shall not extend beyond the original period of revocation or suspension.

(d) The forfeiture of bail bond, not vacated within twenty (20) ~~ten~~ days, in any prosecution for the offense of driving while under the influence of intoxicating liquor to the extent of depriving the defendant of his or her normal faculties, shall be deemed equivalent to a conviction for the purposes of this paragraph and the department shall forthwith revoke the defendant's driver's license or privilege for the maximum period applicable under subsection (2)(a); provided, if the defendant shall subsequently be convicted of said charge, the period of revocation for such conviction shall not exceed the difference between the applicable maximum under subsection (2)(a) and the period imposed under this subsection that shall have actually expired. This subsection shall not apply if an appropriate motion contesting the forfeiture is filed within the twenty (20) day period.

(e) When any driver's license or privilege has been revoked pursuant to the provisions of this section, the department shall not grant a new license until the expiration of the period of revocation so prescribed.

Section 6. Section 322.281, Florida Statutes, is created to read:

322.281 Mandatory adjudication.—Notwithstanding the provisions of §943.01, no court shall withhold adjudication of guilt or imposition of sentence for the offense of driving or being in actual physical control of a motor vehicle, while having an unlawful blood alcohol level or while under the influence of alcoholic beverages, model glue, or any substance controlled by chapter 893.

(2) No trial judge shall accept a plea of guilty to a lesser offense from a person charged under the provisions of this act whose chemical results show a blood alcohol content by weight of .20 percent or more.

Section 7. Section 322.282, Florida Statutes, is created to read:

322.282 Procedure when court revokes and reinstates license or driving privilege on a restricted basis.—When a court revokes and reinstates a license or driving privilege as authorized under §322.28(2)(a)1., the court shall:

(1) Pick up all driver's licenses from the person convicted and revoked, and forward same to the department immediately together with a record of such conviction. The clerk of said court shall also maintain a list of all revocations by said court.

(2) Issue an order of reinstatement, on a form to be furnished by the department, which the person so convicted may personally take to any Florida driver license examining office within seven (7) days from date of conviction, and upon presentation of such court order, a temporary driving permit authorizing driving for employment purposes, as provided in

§322.28(2)(a)1., shall be thereupon issued; and upon verification from the driving record that the person so convicted had no previous convictions for the same offense, an operator or chauffeur license shall be issued upon successfully passing the complete examination; provided, however, should the department determine from its records that such conviction was not the person's first such conviction, the temporary permit shall be cancelled, and a revocation order shall be issued for the maximum period applicable under §322.28(2)(a)2. and 3.

Section 8. In editing manuscript for the next edition of the official Florida Statutes, the division of statutory revision and indexing of the joint legislative management committee is authorized and directed to amend the cross references in paragraphs (c), (d) and (e) of subsection (1) of §322.261, Florida Statutes, to conform with the provisions of section 2 of this act.

Section 9. This act shall take effect January 1, 1975.

Senate Amendment 1-a to House Amendment 1—On page 1, line 3, following 316.028 strike the remainder of Amendment #1. and insert:

Driving while under the influence of alcoholic beverages, model glue, or controlled substances.—

(1) It is unlawful and punishable as provided in subsection (2) for any person who is under the influence of alcoholic beverages, model glue, or any substance controlled under chapter 893, when affected to the extent that his normal faculties are impaired, to drive or be in the actual physical control of any vehicle within this state.

(2) Any person who is convicted of a violation of subsection (1) of this section shall be punished.

(a) For first conviction thereof, by imprisonment for not more than 6 months or by a fine of not less than \$25 or more than \$500, or by both such fine and imprisonment.

(b) For a second conviction within a period of three years from the date of a prior conviction for violation of this section, by imprisonment for not less than 10 days nor more than 6 months and, in the discretion of the court, a fine of not more than \$500.

(c) For a third or subsequent conviction within a period of five years from the date of conviction of the first of three or more convictions for violations of this section, by imprisonment for not less than 30 days nor more than 12 months and, in the discretion of the court, a fine of not more than \$500, except as otherwise provided in this section, by imprisonment for not more than twelve months or by a fine or not less than \$25 or more than \$1,000, or by both such fine and imprisonment.

(3) At the discretion of the court, any person convicted of violating subsection (1) of this section may be required to attend a driver improvement court specified by the court in addition to any fine imposed under this section.

Section 2. Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of subsection (1) of section 322.261, Florida Statutes, 1973, are redesignated as paragraphs (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and a new paragraph (b) is added to said subsection to read:

322.261 Suspension of license; chemical test for intoxication.—

(1)(a) Any person who shall accept the privilege extended by the laws of this state of operating a motor vehicle within this state shall by so operating such vehicle be deemed to have given his consent to submit to an approved chemical test of his breath for the purpose of determining the alcoholic content of his blood if he is lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of alcoholic beverages. The test shall be incidental to a lawful arrest and administered at the request of a peace officer having reasonable cause to believe such person was driving a motor vehicle within this state while under the influence of alcoholic beverages. Such person shall be told that his failure to submit to such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of three months.

(b) 1. Notwithstanding the provisions of §322.261, a law enforcement officer, who has reason to believe that a person's ability to operate a motor vehicle is impaired by alcohol and that the person has been operating a motor vehicle during the

period of such impairment, may, with the person's consent, give, or the person may demand, a prearrest breath test for the purpose of determining if said person is in violation of §316.028(1), but the taking of such prearrest breath test shall not be deemed a compliance with the provisions of §322.261(a). The results of any test administered under this section shall not be admissible into evidence in any civil or criminal proceeding. An analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed according to methods approved by the division of health of the department of health and rehabilitative services. For this purpose, the division of health is authorized to approve satisfactory techniques or methods.

2. Prior to administering any prearrest breath test, a law enforcement officer shall advise the motor vehicle operator that he has the right to refuse to take such test, and prior to administering such test, a law enforcement officer shall obtain the written consent of the motor vehicle operator.

Section 3. Paragraph (d) of subsection (2) of section 322.262, Florida Statutes, is amended to read:

322.262 Presumption of intoxication; testing methods.—

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, or in actual physical control of, a vehicle while under the influence of alcoholic beverages, when affected to the extent that his normal faculties were impaired, the results of any test administered in accordance with §322.261 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood or breath shall give rise to the following presumptions:

(d) Per cent by weight of alcohol in the blood shall be based upon grams milligrams of alcohol per one hundred milliliters cubic centimeters of blood.

Section 4. Subsection (5) of Section 322.27, Florida Statutes, 1973, is amended to read:

(5) The department shall revoke the license of any person designated an habitual offender, as set forth in §322.264, and such person shall not be eligible to be relicensed for a minimum of five years from the date of revocation, except as provided for in section 322.271. Any person whose license is revoked may, by petition to the department, show cause why his license should not be revoked.

Section 5. Section 322.271, Florida Statutes, is amended to read:

322.271 Authority to modify revocation or suspension.—

(1)(a) Upon the suspension, cancellation or revocation of the driver's license of any person as authorized or required in this chapter, except a person whose license is revoked as an habitual traffic offender under §322.27(5), the department shall immediately notify the licensee, and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed thirty days after receipt of such request, in the county wherein the licensee resides, unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing a duly authorized agent of the department may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books, papers, and may require a re-examination of the licensee.

(b) A person whose driving privilege has been revoked under section 322.27(5) may, upon expiration of twelve months from the date of such revocation, petition the department for restoration of driving privilege. Upon such petition and after investigation of the person's qualification and fitness and need to drive, the department shall hold an administrative hearing to determine whether driving privilege shall be restored on a restricted basis solely for business or employment purposes.

(2) Upon such hearing the person whose license has been suspended, cancelled or revoked, may show that such cancellation, suspension or revocation of his license causes a serious hardship and precludes his carrying out his normal business occupation, trade, or employment, and that the use of his license in the normal course of his business is necessary to the proper support of himself or his family. The department

may require proof of a successful completion of an approved driver training or alcohol education course, and may require letters of recommendation from respected business men in the community, law enforcement officers or judicial officers in determining whether such person should be permitted to operate a motor vehicle on a restricted basis for business use only and in determining whether such person can be trusted to so operate a motor vehicle.

(3) Upon such hearing the department shall either suspend, affirm or modify its order and may restore to the licensee the privilege of driving on a limited or restricted basis, for business or employment use only.

Section 6. Section 322.25, Florida Statutes, is amended by adding a new subsection (7):

322.25 When court to forward license to department and report convictions, court order for reinstatement of driving privileges on a temporary basis.—

(7) Any licensed driver convicted for a first violation of driving or being in the actual physical control of any vehicle within this state while under the influence of alcoholic beverages, model glue, or any substance controlled under chapter 893, when affected to the extent that his normal faculties are impaired and whose license and driving privilege have been revoked as provided in subsection (1) of this section may be issued a court order for reinstatement of a temporary driving permit by the court provided that as a part of the penalty, the defendant may be required to enroll in and complete a driver improvement course for the rehabilitation of drinking drivers. The court order for reinstatement shall be on a form provided by the department of highway safety and motor vehicles and must be taken by the person convicted to any Florida driver license examining office within seven days of conviction at which time a temporary driving permit may be issued.

Section 7. Subsection (2) of section 322.28, Florida Statutes, 1973, is amended to read:

322.28 Period of suspension or revocation.—

(2) In prosecutions for the offense of driving a motor vehicle while under the influence of alcoholic beverages to the extent that normal faculties are impaired, as defined in §316.028(1), while under the influence of intoxicating liquor, the following provisions shall apply:

(a) Upon conviction of a driver, the court, along with imposing sentence, shall revoke the driver's license or driving privilege of the person so convicted and shall prescribe the period of such revocation in accordance with the following provisions:

1. Upon first conviction the driver's license or privilege shall be revoked for not less than three months nor more than twelve months.

2. Upon a second conviction within a period of five years from the date of a prior conviction for a violation of the provisions of subsection (1) of §316.028, ~~said offense~~, the driver's license or privilege shall be revoked for not less than six months nor more than twenty-four months.

3. Upon a third or subsequent conviction within a period of five (5) ~~ten~~ years from the date of conviction of the first of three or more convictions for the violation of the provisions of subsection (1) of §316.028, ~~for said offense~~, the driver's license or privilege shall be revoked for not less than one year nor more than five years as provided in §322.27(5).

(d) The forfeiture of bail bond, not vacated within twenty (20) ~~ten~~ days, in any prosecution for the offense of driving while under the influence of intoxicating liquor to the extent of depriving the defendant of his or her normal faculties, shall be deemed equivalent to a conviction for the purposes of this paragraph and the department shall forthwith revoke the defendant's driver's license or privilege for the maximum period applicable under subsection (2)(a); provided, if the defendant shall subsequently be convicted of said charge, the period of revocation for such conviction shall not exceed the difference between the applicable maximum under subsection (2)(a) and the period imposed under this subsection that shall have actually expired. This subsection shall not apply if an appropriate motion contesting the forfeiture is filed within the twenty (20) day period.

(e) When any driver's license or privilege has been revoked pursuant to the provisions of this section, the department shall not grant a new license until the expiration of the period of

revocation so prescribed, except, the department shall issue a temporary driver's permit to a licensee presenting a court order for reinstatement and a written request for a hearing as established in section 322.271, provided, a record check by the department shows no other convictions for driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages and that the person is otherwise entitled to the issuance of a driver license. Such a temporary driver's permit shall be restricted to business or employment purposes only and shall not be used for pleasure, recreational, and non-essential driving. Should the department determine at a later date from its records that the applicant has previously been convicted for the offense of driving or being in the actual physical control of a vehicle while under the influence of alcoholic beverages, the permit issued under this section shall be cancelled. Upon administrative hearing, if the department determines the applicant is not eligible for modification of revocation, the permit shall be cancelled and the original revocation imposed by the court shall be reimposed. A temporary permit issued pursuant to this section shall be valid for forty-five days unless cancelled as herein provided.

Section 8. In editing manuscript for the next edition of the official Florida Statutes, the division of statutory revision and indexing of the joint legislative management committee is authorized and directed to amend the cross references in paragraphs (c), (d) and (e) of subsection (1) of §322.261, Florida Statutes, to conform with the provisions of section 2 of this act.

Section 9. (1) As used in this section, unless the context clearly indicates otherwise:

(a) "Motor vehicle" means any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

(c) "Motor-driven cycle" means every motorcycle and every motor scooter with a motor which produces not to exceed five brake horsepower, including every bicycle with motor attached.

(d) "Department" means the department of highway safety and motor vehicles.

(2) No person shall drive a motorcycle or a motor-driven cycle upon a street or highway in this state unless such person has a valid license to operate such motor vehicle. Any valid resident or nonresident drivers or operators license shall be valid for the operation of any rental motor-driven cycle provided such cycle is governed not to exceed twenty-five miles per hour. Before issuing an original license and before renewing an unendorsed license to permit the operation of a motorcycle or a motor-driven cycle, the department shall require every applicant for such a license to successfully pass an examination which shall include a test of the applicant's eyesight, his ability to read and understand official traffic control devices, his knowledge of the traffic laws of this state and the rules of the road governing the operation of motorcycles and motor-driven cycles, and shall include an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motorcycle or motor-driven cycle. Such examination shall be held in the county, or a place reasonably adjacent thereto, where the applicant resides.

(3) The license to operate a motorcycle or a motor-driven cycle shall be by endorsement or restriction on the applicant's valid driver license. If the applicant does not have a valid driver license, and his driving privilege is not under cancellation, suspension or revocation, and he qualifies on a motorcycle or motor-driven cycle only, he may be issued a license restricted to the operation of a motorcycle or motor-driven cycle only. Fees for an original or renewal license or an endorsement issued under the provisions of this section shall be one dollar in addition to any examination and driver license fees required by Chapter 322, Florida Statutes.

(4) Any valid driver license issued prior to the effective date of this section shall be valid for the operation of a motorcycle or motor-driven cycle until the date of expiration.

(5) The department may accept a certification of competence in lieu of a driving test for a motorcycle or motor-driven cycle

when such certification is issued by the chief officer of a law enforcement agency for its employees who operate motorcycles or motor-driven cycles in their duties.

(6) The division of driver licenses of the department of highway safety and motor vehicles is hereby directed to develop a plan to implement the requirements of this section and to return such plan to the legislature thirty days prior to the beginning of the regular 1975 session.

(7) Any person convicted for violation of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082, or §775.083, Florida Statutes.

Section 10. This act shall take effect January 1, 1975.

House Amendment (2)—On page 1 in the title, strike lines 4—8 and insert the following: A bill to be entitled An act relating to driving while under the influence; amending §316.028, Florida Statutes, 1973, to provide penalties for driving with an unlawful blood alcohol level; adding subsection (d) to §316.028(2), giving the court discretion to require a person convicted of this section to attend driver improvement school in addition to or in place of a fine; adding a new paragraph (b) to §322.261(1), Florida Statutes, 1973, and redesignating subsequent paragraphs accordingly, to provide for prearrest breath test; amending §322.262(2), Florida Statutes, 1973, to provide for unlawful driving with certain blood alcohol percentages, prohibiting trial judge accepting lesser plea if blood alcohol level exceeds certain level; to correct the reference to the measure of weight of alcohol in the blood; amending §322.264(1)(b), Florida Statutes, 1973, to include unlawful blood alcohol level in the definition of habitual traffic offender; amending §322.28(2), Florida Statutes, 1973, to include unlawful blood alcohol level, to change time period for computing subsequent conviction penalties, to change the period within which a bail bond may be vacated; creating §322.281 and §322.282, Florida Statutes, to provide for mandatory adjudication and the procedures when a license is reinstated and restricted; providing an effective date.

Senate Amendment 2 to House Amendment 2—On page 1 in the title, lines 4—26, strike entire title and insert: An act relating to the driving of motor vehicles; providing that no person shall drive a motorcycle or motor-driven cycle upon a highway in this state without having a valid license or endorsement permitting such operation; providing examinations; providing fees; providing for certification of competence for certain law enforcement employees; providing that the department of highway safety and motor vehicles shall develop a plan of implementation; providing a penalty; amending §316.028, Florida Statutes, relating to driving while under the influence, to change the penalties; adding a new paragraph (b) to §322.261(1), F.S., and redesignating subsequent paragraphs accordingly, to provide for prearrest breath test; amending §322.262(2)(d), F.S., to correct the reference to the measure of weight of alcohol in the blood; amending §322.28(2), F.S., to change time period for computing subsequent conviction penalties, to change the period within which bail bond may be vacated; amending §322.25 and §322.28, F.S., to provide for the issuance of a temporary driving permit; amending subsection (5) of section 322.27, F.S., and section 322.271, F.S., to provide for the issuance of a driving privilege on a restricted basis solely for business or employment purposes after a period of twelve months to those whose privilege has been revoked as habitual offenders; providing an effective date.

On motions by Senator Poston the Senate refused to recede from Senate Amendments to House Amendments 1 and 2 to SB 171 and acceded to the request for a conference committee. The President appointed Senators Poston, Trask and Ware as conferees.

The Senate resumed Special Order.

HB 1542 (cs 1542, 1370)—A bill to be entitled An act relating to the Florida Public Service Commission; amending chapter 350, Florida Statutes, adding new sections 350.061 through 350.0614 to create the office of public counsel and to prescribe the qualifications, duties, staff and compensation of said office; amending section 350.58, Florida Statutes, to require annual reports of public counsel; adding subsection (4) to §364.05, Florida Statutes, subsection (4) to §366.06, Florida Statutes, and subsection (5) to §367.081, Florida Statutes, allowing the commission to withhold consent of new rate schedules and defer their use for a five (5) month period; providing that new rates or any portion not consented to shall become effective under bond at the end of five (5) months if the commission has not concluded the proceedings; requiring the utility to keep detailed records and make refunds under certain circumstances and requiring interest to be paid on such refunds; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Williams and adopted:

Amendment 1—On page 4, line 18, after the word "salaries" insert: and expenses

Amendment 2—On page 4, line 19, strike "and all expenses of his office,"

Amendment 3—On page 4, line 20, strike "his office" and insert: the public counsel

Amendment 4—On page 4, strike all of line 23 and insert: the public counsel is under the legislative

Amendment 5—On page 4, line 25, strike "or 282"

Senator Johnston moved the following amendment which was adopted:

Amendment 6—On page 5, line 18, page 6, line 11 and page 7, line 4, strike "decision" and insert: order by the public service commission

Senator Johnston moved the following amendment:

Amendment 7—On page 7, between lines 24 and 25 insert:

Section 6. This act shall not apply to any pending rate changes.

(Renumber subsequent section.)

On motion by Senator Sims, further consideration of HB 1542 (cs 1542, 1370) was deferred.

On motion by Senator Brantley, by two-thirds vote, all bills relating to charity racing were removed from the calendar and placed at the end of the local bill calendar.

On motion by Senator Childers, HB 4175 was withdrawn from the Committee on Governmental Operations by two-thirds vote and placed on the calendar.

On motion by Senator Graham, HB 3757 was withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

The Journal of May 28 was corrected and approved.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 5:38 p.m. to convene at 9:00 a.m., May 30, 1974.