



Journal of the Senate

Number 1—Special Session F

Wednesday, April 7, 1982

At a Special Session of the Florida Legislature convened under Article III, Section 3(c)(1), of the Constitution of the State, as revised in 1968, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

The Senate was called to order by the President at 9:15 p.m.
A quorum present—37:

| | | | |
|---------------|-------------|----------|-----------|
| Mr. President | Hair | Maxwell | Stevens |
| Anderson | Henderson | McClain | Stuart |
| Barron | Hill | McKnight | Thomas |
| Beard | Jenne | Neal | Tobiassen |
| Carlucci | Jennings | Peterson | Trask |
| Childers, D. | Johnston | Poole | Vogt |
| Dunn | Kirkpatrick | Rehm | Ware |
| Frank | Langley | Renick | |
| Gersten | Lewis | Scott | |
| Grizzle | Margolis | Skinner | |



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this Proclamation convening the Legislature in Special Session, at Tallahassee, the Capitol, this 7th day of April 1982.

Bob Graham
Governor

ATTEST:
George Firestone
Secretary of State

By the direction of the President, the Proclamation of the Governor convening the Legislature in Special Session was read:

PROCLAMATION

State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE HOUSE OF REPRESENTATIVES:

WHEREAS, the Legislature of the State of Florida convened in Regular Session for the year 1982 on January 18, 1982, and

WHEREAS, the Legislature on March 18, 1982 extended the Regular Session and adjourned sine die March 25, 1982, and

WHEREAS, the Florida Insurance Code contained within Chapters 624 through 632 of Florida Statutes will be repealed on October 1, 1982 pursuant to the Regulatory Sunset Act, and

WHEREAS, the Florida Insurance Code has not been re-enacted during the Regular Session of the Legislature for 1982 and the extension thereof, and

WHEREAS, it is in the best interest of the citizens of the State that some form of the Insurance Code be carried forward without interruption on October 1, 1982;

NOW, THEREFORE, I, BOB GRAHAM, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 1.

That the Legislature of the State of Florida be and is hereby convened in Special Session commencing at 9:15 p.m., Wednesday, April 7, 1982 and extending through 10:30 p.m., Wednesday, April 7, 1982.

Section 2.

That the Legislature is convened for the sole purpose of considering the Florida Insurance Code and other insurance related bills.

By Senator Hair—

SB 1-F—A bill to be entitled An act relating to automobile clubs; creating s. 624.21, Florida Statutes; authorizing persons to provide certain services relating to a motor vehicle without being deemed an insurer or subject to the Insurance Code; repealing chapter 649, Florida Statutes, relating to regulation of automobile clubs, as scheduled by the Regulatory Sunset Act; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

On motions by Senator Hair, by two-thirds vote SB 1-F was withdrawn from the Committee on Commerce and taken up instanter.

On motions by Senator Hair, by two-thirds vote SB 1-F 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 on passage was:

Yeas—35

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|---------------|-------------|----------|-----------|
| Mr. President | Hair | Margolis | Scott |
| Anderson | Henderson | Maxwell | Skinner |
| Barron | Hill | McClain | Stevens |
| Beard | Jenne | McKnight | Stuart |
| Childers, D. | Jennings | Neal | Tobiassen |
| Dunn | Johnston | Peterson | Trask |
| Frank | Kirkpatrick | Poole | Vogt |
| Gersten | Langley | Rehm | Ware |
| Grizzle | Lewis | Renick | |

Nays—None

Vote after roll call:

Nay—Carlucci

By Senator Hair—

SB 2-F—A bill to be entitled An act relating to automobile inspection and warranty associations and service warranty associations; redesignating such associations as motor vehicle service agreement companies; amending s. 634.011, Florida Statutes; modifying definitions; amending s. 634.031, Florida Statutes; conforming language; amending s. 634.041, Florida Statutes; requiring that all assets used to maintain the minimum net asset requirement be maintained in the United States; providing that to obtain or renew a license, a company must

maintain minimum net assets of \$300,000; requiring companies to establish and maintain an unearned premium reserve consisting of unencumbered assets equal to a minimum of 50 percent of the gross written premium on each service agreement; providing for amortization of such reserve; amending s. 634.052, Florida Statutes; deleting the exceptions to the requirement that companies deposit certain securities with the Department of Insurance; amending s. 634.061, Florida Statutes; requiring corporations and partnerships that apply for a license to submit with their application a copy of their articles of incorporation or partnership document; amending s. 634.071, Florida Statutes; providing for renewal of licenses on a biennial basis and for a \$200 renewal fee beginning September 30, 1983; amending s. 634.121, Florida Statutes; requiring notice to customers that a service agreement is not required to purchase or finance a motor vehicle; providing that motor vehicle service agreements shall be assignable in consumer transactions; creating s. 634.1215, Florida Statutes; providing grounds for disapproval of forms; creating s. 634.1216, Florida Statutes; providing for rate filings; creating s. 634.137, Florida Statutes; providing statistical reporting requirements; amending s. 634.171, Florida Statutes; providing for biennial registration of company salesmen and for a filing fee of \$40 beginning October 1, 1983; amending s. 634.253, Florida Statutes; providing delinquency proceedings; creating s. 634.261, Florida Statutes; authorizing voluntary compliance in lieu of suspension or revocation; creating s. 634.271, Florida Statutes; providing civil remedies; amending ss. 634.011, 634.021, 634.081-634.111, 634.131-634.161, 634.181, 634.191, 634.221-634.241, 634.2515, 634.252, Florida Statutes; providing conforming language and deleting obsolete language; re-designating the title of part I of chapter 634, Florida Statutes, as "Motor Vehicle Service Agreement Companies"; reviving and readopting part I of chapter 634, Florida Statutes, notwithstanding the Regulatory Sunset Act; providing for legislative review; amending s. 634.401(3), Florida Statutes; providing for payment of a segregated premium rather than a prepayment; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

On motions by Senator Hair, by two-thirds vote SB 2-F was withdrawn from the Committee on Commerce and taken up instanter.

On motions by Senator Hair, by two-thirds vote SB 2-F 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 on passage was:

Yeas—36

| | | | |
|---------------|-------------|----------|-----------|
| Mr. President | Grizzle | Lewis | Renick |
| Anderson | Hair | Margolis | Skinner |
| Barron | Henderson | Maxwell | Stevens |
| Beard | Hill | McClain | Stuart |
| Carlucci | Jenne | McKnight | Thomas |
| Childers, D. | Jennings | Neal | Tobiassen |
| Dunn | Johnston | Peterson | Trask |
| Frank | Kirkpatrick | Poole | Vogt |
| Gersten | Langley | Rehm | Ware |

Nays—None

Vote after roll call:

Yea—Scott

By Senators Hair and McClain—

SB 3-F—A bill to be entitled An act relating to insurance; amending s. 626.9541(15), (17), Florida Statutes; deleting a prohibition against certain insurance transactions through credit card facilities and providing that credit cards may be used for the collection of premium and the solicitation of insurance, subject to certain limitations; providing that the charging and collection of any discount or other such fee in addition to the premium is not an illegal dealing in premium; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

On motions by Senator Hair, by two-thirds vote SB 3-F was withdrawn from the Committee on Commerce and taken up instanter.

On motions by Senator Hair, by two-thirds vote SB 3-F 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 on passage was:

Yeas—34

| | | | |
|---------------|-------------|----------|-----------|
| Mr. President | Grizzle | McClain | Stevens |
| Anderson | Hair | McKnight | Stuart |
| Barron | Jenne | Neal | Thomas |
| Beard | Jennings | Peterson | Tobiassen |
| Carlucci | Johnston | Poole | Trask |
| Childers, D. | Kirkpatrick | Rehm | Vogt |
| Dunn | Langley | Renick | Ware |
| Frank | Lewis | Scott | |
| Gersten | Margolis | Skinner | |

Nays—None

By Senator Hair—

SB 4-F—A bill to be entitled An act relating to the Florida Patient's Compensation Fund; amending s. 768.54, Florida Statutes; increasing the amount for which a fund member remains liable; authorizing issuance of limited liability coverage; providing that the fund not be liable for punitive damages; eliminating the authority of the Department of Health and Rehabilitative Services to make certain determinations; increasing the authorized number of geographical areas and categories of practice on which fees are based; authorizing experience rating for individual members; eliminating the maximum fund amount; authorizing the fund to borrow from an account for another fiscal year; increasing the maximum assessment and specifying when it is due; specifying the required method of payment in the event of the fund's liability under a judgment; eliminating the limitation on settlements; requiring the establishment of a risk management program; deleting obsolete language and making various technical changes; reviving and readopting s. 768.54, Florida Statutes, notwithstanding the Regulatory Sunset Act; providing for legislative review; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

On motions by Senator Hair, by two-thirds vote SB 4-F was withdrawn from the Committee on Commerce and taken up instanter.

On motions by Senator Hair, by two-thirds vote SB 4-F 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 on passage was:

Yeas—35

| | | | |
|---------------|-------------|----------|-----------|
| Mr. President | Grizzle | Maxwell | Skinner |
| Anderson | Hair | McClain | Stevens |
| Barron | Hill | McKnight | Stuart |
| Beard | Jenne | Neal | Thomas |
| Carlucci | Jennings | Peterson | Tobiassen |
| Childers, D. | Johnston | Poole | Trask |
| Dunn | Kirkpatrick | Rehm | Vogt |
| Frank | Langley | Renick | Ware |
| Gersten | Margolis | Scott | |

Nays—None

On motions by Senator Maxwell, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction—

By Senator Maxwell—

SB 5-F—A bill to be entitled An act relating to personnel of the school system; amending ss. 230.321(1), 230.66(5), (7), Florida Statutes; conforming language; creating s. 231.001, Florida Statutes; authorizing district school boards to adopt rules relating to personnel; amending s. 231.02, Florida Statutes; providing qualifications for employment in the district school system; amending s. 231.06, Florida Statutes; providing penalties for assault or battery of district school board employees; amending s. 231.07, Florida Statutes; specifying applicability of provisions relating to the disturbance of school functions; amending s. 231.085, Florida Statutes; specifying duties of

principals; amending s. 231.09, Florida Statutes; specifying duties of instructional personnel; amending s. 231.141, Florida Statutes; deleting provisions encouraging district school boards to appoint teacher aides in certain grades; amending s. 231.17-(3)(a), Florida Statutes; providing reemployment rights of beginning teachers; amending s. 231.262, Florida Statutes; providing that the Department of Education, rather than the Education Practices Commission, shall investigate complaints not subject to the revocation or suspension of certificates; authorizing members of the department general counsel staff to review investigations and conduct prosecutions; amending s. 231.28, Florida Statutes; authorizing the Education Practices Commission to impose disciplinary penalties as provided by law; providing additional grounds for discipline; amending s. 231.29, Florida Statutes; revising procedures for assessing district personnel; providing for training programs for evaluators; excluding personnel files from public view; amending s. 231.30-(1), Florida Statutes; deleting specified certification fees and requiring the State Board of Education to adopt rules pertaining to such fees; amending s. 231.36, Florida Statutes; providing for professional service contracts; providing that contracts shall contain provisions for dismissal only for just cause; providing for renewal of contracts; providing procedures in the case of unsatisfactory performance, including notification, informal review, transfer of position, inservice training, and hearing; providing for final determination by the school board for nonrenewal; providing that an employee with continuing contract status on a specified date may retain such contract; providing procedures for suspension or dismissal upon certain grounds and providing for appeal; providing for rules relating to reductions in personnel who are on continuing or professional service contracts; providing for certain continuing service credit; providing that a retired employee returning to work must return on a probationary contract basis; providing that chapter 18964, Laws of Florida, 1937, as amended, chapter 21197, Laws of Florida, 1941, as amended, and chapter 21287, Laws of Florida, 1941, as amended, shall remain in full force, and prohibiting certain other local tenure or other employee contract legislation; amending s. 231.381, Florida Statutes; deleting obsolete language; amending s. 231.39, Florida Statutes; providing for leaves of absence with or without compensation pursuant to district school board rules; creating s. 231.391, Florida Statutes; authorizing school boards to purchase retirement annuities; amending s. 231.40(2), Florida Statutes; providing sick leave for noninstructional personnel; amending s. 231.41, Florida Statutes; providing for illness-in-line-of-duty leave for all district school board employees; creating s. 231.415, Florida Statutes; providing that leave provisions shall not supersede any local law establishing a civil service system covering school district employees; amending s. 231.44, Florida Statutes; providing penalties for absence without leave for all district school board employees; amending s. 231.45, Florida Statutes; requiring each principal and superintendent to keep records of days present and absent for employees; amending s. 231.47, Florida Statutes; requiring school boards to adopt rules for the employment and compensation of substitute teachers; amending s. 231.471(1), Florida Statutes; authorizing district school boards to hire teachers for less than a full school year; creating s. 231.472, Florida Statutes; authorizing district school boards to provide annual leave for 12-month employees; reviving and readopting various provisions of chapter 231, Florida Statutes, notwithstanding the Regulatory Sunset Act; providing for legislative review; providing an effective date.

—which was read the first time by title and referred to the Committees on Education; and Personnel, Retirement and Collective Bargaining.

On motions by Senator Maxwell, by two-thirds vote SB 5-F was withdrawn from the Committees on Education and Personnel, Retirement and Collective Bargaining and taken up instanter.

On motion by Senator Maxwell, by two-thirds vote SB 5-F was read the second time by title.

Senator Maxwell moved the following amendments which were adopted:

Amendment 1—On page 22, line 8, strike "This" and insert: *Except as otherwise hereinafter provided, this*

Amendment 2—On page 23, line 8, strike "to" and insert: *In such hearing the employee may raise as an issue, among other things, the sufficiency of the superintendent's charges of unsatisfactory performance. Such hearing shall*

Senator Frank moved the following amendment:

Amendment 3—Strike everything after the enacting clause and insert:

Section 1. Notwithstanding the provisions of the Regulatory Sunset Act, sections 231.02 through 231.141 and 231.261 through 231.611, Florida Statutes, shall not stand repealed on October 1, 1982, as scheduled by such act, but such sections, as amended, are hereby revived and readopted.

Section 2. Sections 231.02 through 231.141 and 231.161 through 231.611, Florida Statutes, are repealed on October 1, 1983, and shall be reviewed pursuant to section 11.61, Florida Statutes.

Section 3. This act shall take effect October 1, 1982.

On motion by Senator Maxwell, further consideration of SB 5-F was deferred.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has passed HB 4-F and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gustafson—

HB 4-F—A bill to be entitled An act relating to insurance and matters connected therewith; providing that chapters 624 through 632, Florida Statutes, and Part I of chapter 641, Florida Statutes, shall constitute the "Florida Insurance Code"; amending and revising chapters 624, relating to administration and general provisions, 625, relating to accounting, investments and deposits, 626, relating to field representatives and operations, 627, relating to rates and contracts, 628, relating to the organization and procedures of stock and mutual insurers, 629, relating to reciprocal insurers, 630, relating to alien insurers and the trustee assets and domestication thereof, and 632, relating to fraternal benefit societies, all Florida Statutes, which comprise the current "Florida Insurance Code"; amending s. 637.427, Florida Statutes, relating to preexisting dental service plan corporations; amending and revising chapter 641, Florida Statutes, relating to hospital and medical service plans, and health maintenance organizations; creating s. 624.21, Florida Statutes, relating to automobile services which are to be exempt from the code; adding paragraph (d) to s. 95.11(5), Florida Statutes, relating to the statute of limitations on actions against any guaranty association; amending various provisions of Florida Statutes, to correct cross references, and to otherwise conform to the provisions of this act; providing for a Joint Committee; providing for continuation, review, and repeal in accordance with the Regulatory Sunset Act and otherwise; providing effective dates.

—was read the first time by title and referred to the Committee on Commerce.

On motions by Senator Hair, by two-thirds vote HB 4-F was withdrawn from the Committee on Commerce and taken up instanter.

On motions by Senator Hair, by two-thirds vote HB 4-F 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 on passage was:

Yeas—33

| | | | |
|---------------|--------------|-----------|-------------|
| Mr. President | Childers, D. | Grizzle | Jenne |
| Anderson | Dunn | Hair | Jennings |
| Barron | Frank | Henderson | Johnston |
| Beard | Gersten | Hill | Kirkpatrick |

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| Langley | McKnight | Skinner | Vogt |
| Lewis | Neal | Stevens | Ware |
| Margolis | Poole | Stuart | |
| Maxwell | Renick | Tobiassen | |
| McClain | Scott | Trask | |

Nays—None

Vote after roll call:

Yea—Rehm

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership and passed HB 3-F and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Pajcic and others—

HB 3-F—A bill to be entitled An act relating to corporate income tax; amending s. 220.03(1)(l), (2)(c), Florida Statutes, and adding subsection (5) to said section; providing definitional rules; providing for election of methods to report and pay tax; providing for establishment of procedures for election of tax treatment; amending s. 220.13(1) and (2)(e), Florida Statutes; removing real-estate investment trusts from certain requirements relating to adjustments to taxable income; changing the definition of "taxable income" with respect to a real estate investment trust; providing separate formulas to be used in computing the amount of corporate income tax due on installment sales for certain tax years; creating chapter 221, Florida Statutes; imposing an emergency excise tax on certain taxpayers liable for the corporate income tax; providing that the provisions of this chapter shall apply retroactively; providing that such emergency tax shall be allowed as a credit against the emergency tax or corporate income tax in a specified subsequent year; allowing carryover of such credit; providing for administration of the tax; providing an appropriation; providing for non-severability; providing for revenue estimates; providing an effective date and a sunset date.

On motion by Senator Johnston, by the required constitutional two-thirds vote of the Senate, HB 3-F was admitted for introduction, read the first time by title and referred to the Committee on Finance, Taxation and Claims.

On motions by Senator Johnston, by two-thirds vote HB 3-F was withdrawn from the Committee on Finance, Taxation and Claims and taken up instanter.

On motions by Senator Johnston, by two-thirds vote HB 3-F 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 on passage was:

Yeas—35

| | | | |
|---------------|-------------|----------|-----------|
| Mr. President | Hair | Margolis | Skinner |
| Anderson | Henderson | Maxwell | Stevens |
| Barron | Hill | McClain | Stuart |
| Beard | Jenne | McKnight | Thomas |
| Childers, D. | Jennings | Neal | Tobiassen |
| Dunn | Johnston | Peterson | Trask |
| Frank | Kirkpatrick | Poole | Vogt |
| Gersten | Langley | Rehm | Ware |
| Grizzle | Lewis | Renick | |

Nays—None

Vote after roll call:

Yea—Scott

The Senate resumed consideration of—

SB 5-F—A bill to be entitled An act relating to personnel of the school system; amending ss. 230.321(1), 230.66(5), (7), Florida Statutes; conforming language; creating s. 231.001, Florida Statutes; authorizing district school boards to adopt

rules relating to personnel; amending s. 231.02, Florida Statutes; providing qualifications for employment in the district school system; amending s. 231.06, Florida Statutes; providing penalties for assault or battery of district school board employees; amending s. 231.07, Florida Statutes; specifying applicability of provisions relating to the disturbance of school functions; amending s. 231.085, Florida Statutes; specifying duties of principals; amending s. 231.09, Florida Statutes; specifying duties of instructional personnel; amending s. 231.141, Florida Statutes; deleting provisions encouraging district school boards to appoint teacher aides in certain grades; amending s. 231.17 (3)(a), Florida Statutes; providing reemployment rights of beginning teachers; amending s. 231.262, Florida Statutes; providing that the Department of Education, rather than the Education Practices Commission, shall investigate complaints not subject to the revocation or suspension of certificates; authorizing members of the department general counsel staff to review investigations and conduct prosecutions; amending s. 231.28, Florida Statutes; authorizing the Education Practices Commission to impose disciplinary penalties as provided by law; providing additional grounds for discipline; amending s. 231.29, Florida Statutes; revising procedures for assessing district personnel; providing for training programs for evaluators; excluding personnel files from public view; amending s. 231.30 (1), Florida Statutes; deleting specified certification fees and requiring the State Board of Education to adopt rules pertaining to such fees; amending s. 231.36, Florida Statutes; providing for professional service contracts; providing that contracts shall contain provisions for dismissal only for just cause; providing for renewal of contracts; providing procedures in the case of unsatisfactory performance, including notification, informal review, transfer of position, inservice training, and hearing; providing for final determination by the school board for nonrenewal; providing that an employee with continuing contract status on a specified date may retain such contract; providing procedures for suspension or dismissal upon certain grounds and providing for appeal; providing for rules relating to reductions in personnel who are on continuing or professional service contracts; providing for certain continuing service credit; providing that a retired employee returning to work must return on a probationary contract basis; providing that chapter 18964, Laws of Florida, 1937, as amended, chapter 21197, Laws of Florida, 1941, as amended, and chapter 21287, Laws of Florida, 1941, as amended, shall remain in full force, and prohibiting certain other local tenure or other employee contract legislation; amending s. 231.331, Florida Statutes; deleting obsolete language; amending s. 231.39, Florida Statutes; providing for leaves of absence with or without compensation pursuant to district school board rules; creating s. 231.391, Florida Statutes; authorizing school boards to purchase retirement annuities; amending s. 231.40(2), Florida Statutes; providing sick leave for noninstructional personnel; amending s. 231.41, Florida Statutes; providing for illness-in-line-of-duty leave for all district school board employees; creating s. 231.415, Florida Statutes; providing that leave provisions shall not supersede any local law establishing a civil service system covering school district employees; amending s. 231.44, Florida Statutes; providing penalties for absence without leave for all district school board employees; amending s. 231.45, Florida Statutes; requiring each principal and superintendent to keep records of days present and absent for employees; amending s. 231.47, Florida Statutes; requiring school boards to adopt rules for the employment and compensation of substitute teachers; amending s. 231.471(1), Florida Statutes; authorizing district school boards to hire teachers for less than a full school year; creating s. 231.472, Florida Statutes; authorizing district school boards to provide annual leave for 12-month employees; reviving and readopting various provisions of chapter 231, Florida Statutes, notwithstanding the Regulatory Sunset Act; providing for legislative review; providing an effective date.

—which was taken up with pending Amendment 3.

Senator Thomas presiding

On motion by Senator Maxwell, by two-thirds vote debate was limited to 2 minutes per side.

The President presiding

The question recurred on Amendment 3 which failed.

Further consideration of SB 5-F was deferred.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership and passed HB 2-F and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gardner and others—

HB 2-F—A bill to be entitled An act relating to personnel of the school system; amending ss. 230.321(1) and 230.66(5) and (7), Florida Statutes, to conform to provisions of this act; creating s. 231.001, Florida Statutes, authorizing district school boards to adopt rules relating to personnel; amending s. 231.02, Florida Statutes, providing qualifications for employment in the district school system; amending s. 231.06, Florida Statutes, providing penalties for assault or battery of district school board employees; amending s. 231.07, Florida Statutes, relating to the disturbance of school functions, to clarify; amending s. 231.085, Florida Statutes, relating to duties of principals; amending s. 231.09, Florida Statutes, relating to duties of instructional personnel; amending s. 231.141, Florida Statutes, deleting provisions encouraging district school boards to appoint teacher aides in certain grades; amending s. 231.17(3)(a), Florida Statutes, providing reemployment rights of beginning teachers; amending s. 231.262, Florida Statutes, providing that the Department of Education, rather than the Education Practices Commission, shall investigate complaints not subject to the revocation or suspension of certificates; authorizing members of the department general counsel staff to review investigations and conduct prosecutions; amending s. 231.28, Florida Statutes, authorizing the Education Practices Commission to impose penalties as provided by law; providing additional grounds for discipline; amending s. 231.29, Florida Statutes, revising procedures for assessing district personnel; providing for training programs for evaluators; excluding personnel files from public view; amending s. 231.30(1), Florida Statutes, deleting specified certification fees and requiring the State Board of Education to adopt rules pertaining to such fees; amending s. 231.36, Florida Statutes, providing for professional service contracts; providing that contracts shall contain provisions for dismissal only for just cause; providing for renewal of contracts; providing procedures in the case of unsatisfactory performance, including notification, informal review, transfer of position, inservice training, and hearing; providing for final determination by the school board for non-renewal; providing that an employee with continuing contract status on July 1, 1984, may retain such contract; providing procedures for suspension or dismissal upon certain grounds and providing for appeal; providing for rules relating to reductions in personnel who are on continuing or professional service contracts; providing for certain continuing service credit; providing that a retired employee returning to work must return on a probationary contract basis; providing that chapter 18964, Laws of Florida, 1937, as amended, chapter 21197, Laws of Florida, 1941, as amended, and chapter 21287, Laws of Florida, 1941, as amended, shall remain in full force, and prohibiting certain other local tenure or other employee contract legislation; amending s. 231.381, Florida Statutes, to delete obsolete language; amending s. 231.39, Florida Statutes, providing for leaves of absence with or without compensation pursuant to district school board rules; creating s. 231.391, Florida Statutes, authorizing school boards to purchase retirement annuities; amending s. 231.40(2), Florida Statutes, providing sick leave for noninstructional personnel; amending s. 231.41, Florida Statutes, providing for illness-in-line-of-duty leave for all district school board employees; creating s. 231.415, Florida Statutes, providing that leave provisions shall not supersede any local law establishing a civil service system covering school district employees; amending s. 231.44, Florida Statutes, providing penalties for absence without leave for all district school board employees; amending s. 231.45, Florida Statutes, requiring each principal and superintendent to keep records of days present and absent for employees; amending s. 231.47, Florida Statutes, requiring school boards to adopt rules for the employment and compensation of substitute teachers; amending s. 231.471(1), Florida Statutes, authorizing district school boards to hire teachers for less than a full school year; creating s. 231.472, Florida Statutes, authorizing district school boards to provide annual leave for 12-month employees; saving specified sections of chapter 231, Florida Statutes, from sunset review and repeal scheduled

October 1, 1982; providing for future review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

On motion by Senator Maxwell, by the required constitutional two-thirds vote of the Senate, HB 2-F was admitted for introduction, read the first time by title and referred to the Committee on Education.

On motions by Senator Maxwell, by two-thirds vote HB 2-F was withdrawn from the Committee on Education and taken up instanter.

On motion by Senator Maxwell, HB 2-F, a companion measure, was substituted for SB 5-F and by two-thirds vote read the second time by title.

Senator Maxwell moved that the rules be waived and HB 2-F be read the third time by title. The motion was adopted. The vote was:

Yeas—22

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| Anderson | Hill | Maxwell | Skinner |
| Barron | Jennings | McClain | Stevens |
| Beard | Johnston | McKnight | Thomas |
| Childers, D. | Kirkpatrick | Neal | Trask |
| Gersten | Langley | Poole | |
| Henderson | Margolis | Scott | |

Nays—10

| | | | |
|---------|-------|-----------|------|
| Dunn | Hair | Renick | Ware |
| Frank | Jenne | Stuart | |
| Grizzle | Rehm | Tobiassen | |

HB 2-F was read by title, passed and certified to the House. The vote on passage was:

Yeas—23

| | | | |
|---------------|-------------|----------|---------|
| Mr. President | Hair | Margolis | Scott |
| Anderson | Henderson | Maxwell | Skinner |
| Barron | Jennings | McClain | Stevens |
| Beard | Johnston | McKnight | Thomas |
| Childers, D. | Kirkpatrick | Neal | Trask |
| Gersten | Langley | Poole | |

Nays—9

| | | | |
|---------|--------|-----------|------|
| Dunn | Jenne | Stuart | Ware |
| Frank | Rehm | Tobiassen | |
| Grizzle | Renick | | |

Vote after roll call:

Nays—Lewis

SB 5-F was laid on the table.

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has passed SB's 1-F, 2-F, 3-F and 4-F.

Allen Morris, Clerk

The bills contained in the above message were ordered enrolled.

VETOED BILL 1982 REGULAR SESSION

STATE OF FLORIDA

Office of Governor Bob Graham

Honorable W. D. Childers
President, Florida Senate

April 7, 1982

Dear Mr. President:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8 of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 921, enacted by

the Seventh Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1982, and entitled:

"An act relating to the Administrative Procedure Act; amending s. 120.52(10), Florida Statutes; exempting prisoners and parolees from certain appellate review; creating s. 120.525, Florida Statutes, providing that the Legislature, through the appropriate committee in each house, shall review and comment on every proposed rule as to compliance with the legislative intent and enacting the statute under which the agency proposes to rule; amending s. 120.54(14), Florida Statutes, to require specific statutory authority to enact rules; providing an effective date."

Senate Bill 921, as originally introduced, prohibited prisoners from obtaining appeals under provisions of Section 120.68, Florida Statutes. This legislation was filed in response to the decision of the First District Court of Appeal in *Daniels v. Parole and Probation*, 401 So.2d 1351 (Fla. 1st DCA 1981). The bill was amended, however, to require executive agencies to have specific statutory authority to enact rules and to require additional review by legislative committees of every rule proposed by all state agencies. Because of the amendments, I am compelled to reject this legislation for the following reasons.

Section 2 of Senate Bill 921 creates Section 120.525, Florida Statutes, which provides for review and comment by the "appropriate committee" in each house of the Legislature as to whether a proposed rule is consistent with legislative intent. If a proposed rule is deemed to be in conflict with legislative intent, as determined by the "appropriate committee," and the agency refuses to modify, amend, withdraw, or repeal the proposed rule, the comments of the committee are published in the Florida Administrative Weekly and a footnoted reference to the comments appears in the Florida Administrative Code.

This review process improperly grants the authority to determine "legislative intent" to individual committees of the Legislature. Legislative power is vested in the *entire* Legislature by Section 1, Article III of the Florida Constitution, not in a select group of legislators. Further, courts have consistently held that when the Legislature passes a law, it is deemed to have expressed its intent by the words found in the statute. It is, therefore, inappropriate for substantive committees of each house of the Legislature to declare and publish their opinion of what constitutes legislative intent for a particular statute.

Additionally, Section 2 of Senate Bill 921 is ambiguous. It does not specify the method for determining which are the "appropriate" committees in each house, nor does it specify the party who makes the determination. Due to the amendatory process

through which bills must pass prior to enactment, such a determination may be unclear in many cases. Also, the bill does not establish a time frame for review and publication of committee comments, thus creating the possibility of agency action in reliance on a rule prior to receipt of negative comments from the legislative committees. The possibility also exists that the Senate and House committees asked to review a rule could make different interpretations of the rule's compliance with legislative intent. This would cause confusion to those who must comply with agency rules and would undermine public confidence in State government.

The review process created by Senate Bill 921 is also unnecessary and would be expensive to implement. The responsibility of the Joint Administrative Procedures Committee, as set forth in Sections 11.60 and 120.545, Florida Statutes, adequately addresses the need for legislative oversight into the rulemaking procedures utilized by the Executive Branch. The legislative economic impact statement accompanying Senate Bill 921 projected that the secondary level of legislative review contemplated by this bill would cost in excess of \$1 million annually. Such an expenditure is not justified for a marginally useful and potentially detrimental program and was not contemplated in the bill or in the General Appropriations Act.

Section 3 of Senate Bill 921 amends Section 120.54(14) to remove an agency's authority to adopt rules "except where the Legislature has passed a specific statute relating to the specific subject matter of any rule." This section is totally unnecessary because the Administrative Procedure Act already requires an agency to identify its rulemaking authority and the specific statute implemented for each rule proposed. Further, the language utilized in Section 3 may have a negative effect upon the efficient operation of our agencies by virtue of unnecessarily encumbering the deliberative rulemaking process.

For the above reasons, I am withholding my approval of Senate Bill 921, Regular Session of the Legislature, commencing on January 18, 1982, and do hereby veto the same.

Sincerely,
Bob Graham
Governor

SB 921 (1982 Regular Session), together with the Governor's objections thereto, was referred to the Committee on Rules and Calendar.

On motion by Senator Barron, the Senate adjourned sine die at 10:30 p.m.

JOURNAL OF THE FLORIDA SENATE

Monday, April 19, 1982

ENROLLING REPORT

SB 1-F SB 2-F SB 3-F SB 4-F

—have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 19, 1982.

Joe Brown, Secretary

CERTIFICATE

THIS IS TO CERTIFY that the foregoing pages numbered from 1 to 6, both inclusive, are and constitute a complete, true and correct journal and record of the proceedings of the Senate of the State of Florida, in Special Session, convened at 9:15 p.m. on the 7th day of April, 1982, adjourned at 10:30 p.m. on the 7th day of April, 1982. Additionally, there has been included a record of the transmittal of Acts subsequent to sine die adjournment of the Special Session.

JOE BROWN
Secretary of the Senate

Tallahassee, Florida
April 19, 1982