



# Journal of the Senate

Number 30

Friday, June 3, 1983

## BILL ACTION SUMMARY

Friday, June 3, 1983

H 60 Passed as amended  
H 180 Passed  
H 310 Passed  
H 329 Passed  
H 359 Concurred, passed as amended  
H 362 Passed as amended  
H 520 Concurred, passed as amended  
H 534 Passed  
H 557 Passed as amended  
H 609 Receded, passed  
H 611 Passed  
H 680 Receded, passed as amended  
H 700 Passed  
H 739 Passed  
H 821 Passed  
H 1020 Passed  
H 1076 Passed  
H 1079 Passed as amended  
H 1093 Passed  
H 1097 Receded, passed  
H 1099 Passed  
H 1103 Concurred, passed as amended  
H 1169 Refused to concur, requested House to recede  
H 1239 Passed as amended  
H 1255 Passed  
H 1267 Passed  
H 1295 Passed as amended  
H 1302 Passed as amended  
H 1321 Concurred, receded, passed as amended  
S 6 Concurred, C/S passed as amended  
S 46 C/S passed as amended  
S 51 Concurred, passed as amended  
S 56 Concurred, C/S passed as amended  
S 87 C/S passed as amended  
S 111 Concurred, C/S passed as amended  
S 130 C/S passed as amended  
S 132 C/S passed as amended  
S 166 Concurred, C/S passed as amended  
S 201 Refused to recede  
S 207 C/S passed as amended  
S 208 C/S passed as amended  
S 233 Concurred, passed as amended  
S 302 C/S passed  
S 310 Concurred, C/S passed as amended  
S 404 Concurred, passed as amended  
S 435 C/S Passed as amended  
S 461 Concurred, C/S passed as amended  
S 466 Refused to concur, requested House to recede  
S 517 Concurred, C/S passed as amended  
S 603 Concurred, passed as amended  
S 610 Concurred, C/S passed as amended  
S 645 Concurred, passed as amended  
S 664 Concurred, passed as amended  
S 783 C/S passed as amended  
S 835 Concurred, passed as amended  
S 916 Concurred, C/S passed as amended  
S 952 Passed as amended  
S 968 Concurred, C/S passed as amended  
S 1009 Indefinitely postponed  
S 1065 Concurred, C/S passed as amended  
S 1142 C/S passed  
S 1207 Adopted

S 1209 Adopted  
S 1210 Adopted  
and passed the following local bills: House Bills 1251, 591, 1071, 1003, 588 and 772; Senate Bill 951.

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

Mr. President	Frank	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein

Excused periodically: Senators Mann, Neal, Langley, Kirkpatrick and Grizzle, conferees on CS for CS for HB 1129; Senators Gordon, Barron, Grant, Maxwell, Vogt and Hair, conferees on CS for CS for SB 357; Senators Johnston, Thomas, Kirkpatrick, Margolis, Maxwell, Neal, Scott, Vogt, Beard, Crawford, Gordon and Grant, conferees and alternates on SB 1195.

Prayer by the Rev. Donald E. Davis, Pastor, Sunshine Presbyterian Church, Hialeah:

Almighty God, we thank you for this new day. We thank you for the opportunity of being responsible with it. We ask your grace and mercy to bless these who represent the citizens of Florida, to help them be creative, to be clever and to be committed in their tasks as they finish this session and whatever lies ahead. Grant them, our Father, the understanding and the clarity of mind to realize both the intricacies, the opportunities and the responsibilities of representing human beings. Minister to all of our needs through Jesus Christ who loves us. Amen.

## Votes Recorded

Senator Crawford was recorded as voting yea on the following bills which were considered May 25: House Bills 185, 158, 1194, 392 and 643, Senate Bills 894, 623, 806, CS for SB 783, CS for HB 286; on June 1: Senate Bills 233 and 129, House Bills 359 and 809, CS for HB 645, CS for SB 1108; and on June 2: House Bills 624 and 1046, SR 1208 and CS for HB 238.

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, June 3, 1983: HB 1251, HB 591, HB 1071, HB 1003, CS for HB 588, SB 951

Respectfully submitted,  
*Dempsey J. Barron, Chairman*

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, June 3, 1983: CS for SB 1142, CS for SB 130, SB 288, CS for SB 1009, CS for SB 512

Respectfully submitted,  
*Dempsey J. Barron, Chairman*

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 735

The bill with committee substitute attached was placed on the calendar.

On motion by Senator Henderson, by unanimous consent the following resolutions were introduced out of order:

**INTRODUCTION AND REFERENCE OF BILLS**

By Senator Henderson—

**SR 1207**—A resolution honoring George Sykes, Assistant to the Sergeant at Arms of the Florida Senate, on the occasion of his retirement.

—which was read the first time by title. On motion by Senator Henderson, SR 1207 was read the second time in full and adopted. The vote on adoption was:

Yeas—37

Mr. President	Frank	Johnston	Rehm
Barron	Girardeau	Kirkpatrick	Scott
Beard	Gordon	Langley	Stuart
Carlucci	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	McPherson	Vogt
Childers, W. D.	Henderson	Meek	Weinstein
Crawford	Hill	Myers	
Dunn	Jenne	Neal	
Fox	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Malchon

By Senator Gordon—

**SR 1210**—A resolution commending artist Christo Javacheff for his artwork "Surrounded Islands" and his contributions in attracting national and international attention to Miami, Dade County, and the State of Florida.

—which was read the first time by title. On motion by Senator Gordon, SR 1210 was read the second time in full and adopted. The vote on adoption was:

Yeas—36

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Dunn	Hill	McPherson	Weinstein

Nays—None

All Senators were recorded as co-introducers of SR 1210.

**MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS**

The Governor advised that he had filed with the Secretary of State Senate Bills 190, 220, 511, 564, 585 and 671 which he approved June 2.

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1020 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Tourism and Economic Development and Representative Spaet—

**CS for HB 1020**—A bill to be entitled An act relating to receptive tour operators; amending s. 559.925, Florida Statutes, 1982 Supplement; modifying the definition of "receptive tour operator" and providing additional definitions; providing additional duties and requirements of receptive tour operators; providing exceptions; providing the Division of Hotels and Restaurants of the Department of Business Regulation and the department with additional powers; lowering bonding requirements; providing an alternative to purchase of a performance bond; providing for claims; providing a criminal penalty; providing an effective date.

—was read the first time by title. On motion by Senator Gordon, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

On motions by Senator Gordon, by unanimous consent, CS for HB 1020 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Mr. President	Gordon	Malchon	Thomas
Beard	Grant	Maxwell	Thurman
Castor	Grizzle	Myers	Vogt
Childers, D.	Hill	Neal	Weinstein
Childers, W. D.	Jennings	Plummer	
Crawford	Johnston	Scott	
Frank	Langley	Stuart	

Nays—None

*The Honorable Curtis Peterson, President*

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

**CS for SB 207**—A bill to be entitled An act relating to home warranty associations; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 634.301-634.329, Florida Statutes, relating to the regulation of home warranty associations; amending s. 634.301(3), (5)-(7), Florida Statutes, and adding subsections (11)-(16) to said section; amending ss. 634.304, 634.305, 634.306(4), 634.307, 634.308, 634.310(1), 634.311(4), 634.313(1), (2), 634.315, 634.317, 634.318, 634.319, 634.321, 634.322, 634.323(1), 634.324, 634.326, Florida Statutes; adding s. 634.320(11), Florida Statutes; creating ss. 634.3045, 634.3112, 634.3125, 634.3126, 634.3135, 634.3225, 634.3275, 634.3285, 634.335-634.345, Florida Statutes; providing definitions; providing qualifications for renewal of license; requiring an unearned premium reserve fund; specifying minimum required net assets; providing for contractual liability insurance in lieu of an unearned premium reserve; eliminating letters of credit; prohibiting refund of license fee upon denial of license; providing for administrative fines in lieu of suspension or revocation of license; providing for disapproval of forms; providing for rates to be filed for informational purposes; specifying contents of annual statements; providing minimum requirements for office records and permitting computer records; revising requirements for service of process; requiring registration of certain real estate brokers; providing for biennial registration of sales representatives; providing grounds and procedures for suspension or revocation of registration; specifying duration of suspension or revocation; increasing administrative fines imposed in lieu of suspension or revocation of registration; providing fees; providing for confidentiality of investigative records; requiring departmental approval of mergers or consolidations of associations; prohibiting unfair methods of competition and unfair trade practices; defining unfair trade practices; providing the department powers; providing remedies for violations; prohibiting coercion of debtors; requiring buyer's right to cancel; allowing to stand repealed pursuant to the Regulatory Sunset Act, s. 634.316, Florida Statutes, relating to service of process; providing for legislative review; providing retroactivity; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 2, line 26, strike everything after the enacting clause, and insert:

**CHAPTER 634, PART II  
HOME WARRANTY ASSOCIATIONS**

Section 1. Section 634.301, Florida Statutes, is amended to read:

634.301 Definitions.—As used in this part:

- (1) "Home warranty association" or "association" means any corporation or ~~any other organization~~, other than an authorized insurer, issuing home warranties as herein defined.
- (2) "Insurer" means any property or casualty insurer duly authorized to transact such business in this state.
- (3) "Home warranty" or "warranty" means any contract or agreement:

(a) Offered in connection with the sale of residential property; or

(b) Offered in connection with a loan of \$5,000 or more which is secured by residential property which is the subject of the warranty, but not in connection with the sale of such property,

whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss. However, nothing in this part shall prohibit the giving of usual performance guarantees by either the builder of a home or the manufacturer or seller of an appliance, as long as no identifiable charge is made for such guarantee. Nothing in this part shall be construed as permitting the provision of indemnification against consequential damages arising from the failure of any structural component or appliance of a home, which practice shall constitute the transaction of insurance subject to all requirements of the Insurance Code. This part shall not apply to service contracts entered into between consumers and nonprofit organizations or cooperatives whose members consist of condominium associations and condominium owners which perform repairs and maintenance for appliances or maintenance of the residential property.

(4) "Structural component" means the roof, plumbing system, electrical system, foundation, basement, walls, ceilings, or floors of a home.

(5) "Sales representative" ~~"Contracting sales agent"~~ means any person with whom an insurer or home inspection or warranty association has a contract and who is utilized by such insurer or association for the purpose of selling or issuing home warranties. The term shall include all employees of any insurer or association engaged directly in the sale or issuance of home warranties.

(6) "Premium" means the total consideration received, or to be received, by an insurer or home warranty association for or related to the issuance and delivery of any binder or warranty, including any charges designated as assessments or fees for membership, policy, survey, inspection, service, or any other charges.

(7) "Department" means the Florida Department of Insurance.

~~(8) "Person" shall include an individual, company, corporation, association, insurer, agent, and every other legal entity.~~

~~(8)(9)~~ "Insolvent" means the inability of a corporation to pay its debts as they become due in the usual course of its business.

~~(9)(10)~~ "Impaired" means having liabilities in excess of assets.

(10) "Net assets" means the amount by which the total assets of an association exceed the total liabilities of the association. For purposes of this definition, the term "total liabilities" shall not include the capital and surplus of an association.

(11)(a) "Stated capital" means, at any particular time, the sum of:

1. The par value of all shares of the association having a par value that have been issued and have not been canceled;

2. The amount of consideration received by the association for all shares of the association without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law; and

3. Such amounts, not included in subparagraphs 1. and 2., as have been transferred to stated capital of the association, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law.

(b) Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign association shall be determined on the same basis and in the same manner as the stated capital of a domestic association, for the purpose of computing taxes on qualification and other charges imposed by this part.

(12) "Surplus" means the excess of the net assets of an association over its stated capital.

(13) "Earned surplus" means the portion of the surplus of an association that is equal to the balance of its net profits, income, gains, and losses from the date of incorporation or existence, or from the latest

date on which a deficit in earned surplus was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent that such distributions and transfers are made out of earned surplus. "Earned surplus" shall also include any portion of surplus allocated to earned surplus in mergers, consolidations, or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

(14) "Capital surplus" means the entire surplus of an association other than its earned surplus.

(15) "Insurance Code" means the Florida Insurance Code as defined in s. 624.01.

Section 2. Section 634.302, Florida Statutes, is amended to read:

634.302 Powers of department; rules.—The department shall administer this part, and, ~~to that end, it may adopt, promulgate, and enforce~~ rules necessary and proper to effectuate any provisions of this part.

Section 3. Section 634.303, Florida Statutes, is amended to read:

634.303 License required.—

(1) No person in this state shall provide or offer to provide home warranties unless authorized therefor under a subsisting license issued by the department. The home warranty association shall pay to the department a license fee ~~tax~~ of \$200 for such license for each license year, or part thereof, the license is in force.

(2) An insurer, while authorized to transact property or casualty insurance in this state, may also transact a home warranty business without additional qualifications or authority, but shall be otherwise subject to the applicable provisions of this part.

Section 4. Section 634.304, Florida Statutes, is amended to read:

634.304 Qualifications for license.—The department shall not issue or renew a license to any home warranty association unless the association is ~~qualified therefor, as follows:~~

(1) Is a solvent corporation formed under the laws of Florida or of another state, district, territory, or possession of the United States.

(2) Furnishes the department with evidence satisfactory to it that the management of the association is competent and trustworthy and can successfully manage the association's affairs in compliance with law.

(3) Proposes to use and uses in its business a name, together with a trademark or emblem, if any, which is distinctive and not so similar to the name or trademark of any other association, corporation, or organization already doing business in this state as will tend to mislead or confuse the public.

~~(4) Meets~~ ~~Makes~~ the deposit requirements or files the bond or letter of credit required under s. 634.305.

(5) Is otherwise in compliance with this part.

Section 5. Section 634.3045, Florida Statutes, is created to read:

634.3045 Financial requirements.—

(1) In order to obtain or renew a license, an association shall have and maintain minimum net assets of one-sixth of written premiums on all warranty contracts in force wherever written. Goodwill, franchises, customer lists, patents or trademarks, and receivables from or advances to officers, directors, employees, salesmen, and affiliated companies, and assets deposited outside the United States shall be deducted from the net assets of the association in computing the net asset requirement.

(2) An association shall establish and maintain a funded unearned premium reserve, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums on all warranty contracts in force, wherever written. Such assets shall be held as prescribed under ss. 625.301-625.340.

(3) An association shall not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the department that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer that holds a certificate

of authority to do business within the state or from an insurer approved by the department as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state, for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy shall not be canceled or nonrenewed by either the insurer or the association unless 60 days written notice thereof has been given to the department by the insurer prior to the date of such cancellation or nonrenewal.

(4) An association that purchases contractual liability insurance on the warranties that it issues shall provide the department with claim statistics required to be filed by associations not purchasing such insurance.

Section 6. Section 634.305, Florida Statutes, is amended to read:

634.305 Required deposit, ~~bond, or letter of credit.~~—

(1) To assure the faithful performance of its obligations to its members or subscribers in the event of insolvency, every home warranty association shall, prior to the issuance of its license by the department, deposit with the department securities of the type eligible for deposit by insurers under s. 625.52, which securities shall have at all times a market value of not less than \$100,000 ~~\$50,000 during the 2 calendar years immediately succeeding October 1, 1977, not less than \$75,000 during the next succeeding 2 calendar years, and not less than \$100,000 thereafter.~~

(2) In lieu of any deposit of securities required under subsection (1), the home warranty association may:

(a) Deposit with the department securities of the type eligible for deposit by insurers under s. 625.52, which securities shall have at all times a market value of not less than \$25,000; and ~~The association may file with the department a surety bond in like amount. The bond shall be one issued by an authorized surety insurer, shall be for the same purpose as the deposit in lieu of which it is filed, and shall be subject to the department's approval. No such bond shall be canceled or be subject to cancellation unless at least 30 days' advance notice thereof in writing is filed with the department.~~

(b) File with the department a surety bond in the amount of \$75,000. The bond shall be one issued by an authorized surety company, and shall be for the same purpose as the deposit in lieu of which it is filed. The bond shall guarantee that the home warranty association shall faithfully and truly perform all the conditions of any home warranty contract. The bond used shall be subject to the department's approval. No such bond shall be canceled or be subject to cancellation unless at least 60 days' advance notice thereof, in writing, is filed with the department.

In the event that notice of termination of the bond is filed with the department, the home warranty association insured thereunder shall, within 30 days of the filing of notice of termination, provide the department with a replacement bond meeting the requirements of this part, or deposit additional securities as required under subsection (1).

(3) Cancellation of a bond shall not relieve the obligation of the issuer of the bond for claims arising out of contracts issued prior to cancellation of the bond unless a replacement bond or securities are filed pursuant to subsection (2). In no event shall the issuer's liability under the bond exceed the face amount of the bond. If within 30 days of filing the notice of termination, no replacement bond or additional security is provided, the department shall suspend the association's license until the deposit requirements are satisfied. ~~The association may file with the department an irrevocable letter of credit in like amount. The irrevocable letter of credit shall be issued by a national or state banking association located inside or outside the state, shall be for the same purpose as the deposit in lieu of which it is filed, and shall be subject to the department's approval.~~

~~(1)(4) Securities or, bonds, and letters of credit posted by an association pursuant to this section shall be for the benefit of, and subject to action thereon in the event of insolvency of any association or insurer by, any person or persons sustaining an actionable injury due to the failure of the association faithfully to perform its obligations to its warranty holders. Whenever the market value of the securities deposited with the department is less than 95 percent of the amount required, the association shall deposit additional securities or otherwise increase the deposit to the amount required.~~

(5)(4) The state shall be responsible for the safekeeping of all securities deposited with the department under this part. Such securities shall not, on account of being in this state, be subject to taxation, but shall be held exclusively and solely to guarantee the association's faithful performance of its obligations to its members or subscribers.

(6)(5) The depositing association shall, during its solvency, have the right to exchange or substitute other securities of like quality and value for securities so on deposit, to receive the interest and other income accruing to such securities, and to inspect the deposit at all reasonable times.

(7)(6) Such deposit ~~or, bond, or letter of credit~~ shall be maintained unimpaired as long as the association continues in business in this state. Whenever the association ceases to do business in this state and furnishes the department proof satisfactory to the department that it has discharged or otherwise adequately provided for all its obligations to its members or subscribers in this state, the department shall release the deposited securities to the parties entitled thereto, on presentation of the department's receipts for such securities, or shall release any ~~bond or letter of credit~~ filed with it pursuant to this section ~~in lieu of such deposit.~~

Section 7. Section 634.306, Florida Statutes, is amended to read:

634.306 Application for and issuance of license.—

(1) Application for license as a home warranty association shall be made to and filed with the department on printed forms prescribed and furnished by it.

(2) In addition to information relative to its qualifications as required under s. 634.304, the application shall show:

(a) The location of applicant's home office.

(b) The name and residence address of each director or officer of applicant.

(c) Such other pertinent information as may be required by the department.

(3) The application when filed shall be accompanied by:

(a) A copy of the applicant's articles of incorporation, certified by the public official having custody of the original, and a copy of the applicant's bylaws, certified by the applicant's secretary.

(b) A copy of the most recent financial statement of the applicant, verified under oath of at least two of its principal officers.

(c) A license fee in the amount of \$200, as required under s. 634.303.

(4) Upon completion of the application for license, the department shall examine the same and make such further investigation of the applicant as it deems advisable. If it finds that the applicant is qualified in accordance with this part ~~therefor~~, the department shall issue to the applicant a license as a home warranty association. If the department does not so find, it shall refuse to issue the license and shall give the applicant written notice of such refusal, setting forth the grounds therefor. ~~Any such notice of refusal shall be accompanied by refund of the annual license fee tendered in connection with the application. The department shall act upon any such application within a reasonable period of time after its completion.~~

Section 8. Section 634.307, Florida Statutes, is amended to read:

634.307 License expiration; renewal.—Each license as a home warranty association issued under this part shall expire on ~~June 1 September~~ 30 next following the date of issuance. If the association is then qualified therefor under the provisions of this part, its license may be renewed annually, upon its request and upon payment to the department of the license fee ~~tax~~ in the amount of \$200, in advance, for each such license year.

Section 9. Section 634.308, Florida Statutes, is amended to read:

634.308 Grounds for suspension or revocation of license.—

(1) The license of any home warranty association may be revoked or suspended, or the department may refuse to renew any such license, if it is determined that *the association*:

(a) ~~the association~~ Has violated any lawful rule or order of the department or any provision of this part.

(b) ~~The association has not maintained a funded unearned premium reserve account equal to a minimum of 25 percent of the premiums received by it from all warranty contracts in force.~~

(c) ~~The association has not maintained, at a minimum, a net worth equal to one-sixth of the written premiums it receives for the issuance and delivery of any in-force binder or warranty.~~

(2) ~~The license of any home warranty association shall be suspended or revoked if it is determined that such association:~~

(b)(a) Is in unsound *financial* condition or is in such condition ~~or using such methods and practices in the conduct of its business~~ as to render its further transaction of warranties in this state hazardous or injurious to its warranty holders or to the public.

(c)(b) Has refused to be examined or to produce its accounts, records, and files for examination, or if any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to such examination, when required by the department.

(d)(e) Has failed to pay any final judgment rendered against it in this state within 60 days after the judgment became final.

(e)(d) Has, ~~with such frequency as to indicate its general business practice in this state, and~~ without just cause, refused to pay proper claims arising under its warranties or, without just cause, compels warranty holders to accept less than the amount due them or to employ attorneys or to bring suit against the association to secure full payment or settlement of such claims.

(f)(e) Is affiliated with, and under the same general management, interlocking directorate, or ownership as, another home warranty association which transacts direct warranties in this state without having a license therefor.

(g)(f) Has issued warranty contracts which provide for renewal thereof.

(h) *Is using methods or practices in the conduct of its business that render further transaction of warranty business in this state hazardous or injurious to its warranty holders or to the public.*

(2)(3) The department may, pursuant to s. 120.60, in its discretion and without advance notice or hearing thereon, immediately suspend the license of any home warranty association if it finds that one or more of the following circumstances exist:

(a) The association is insolvent or impaired.

(b) The *unearned premium reserve or net assets account* required by *this part* are ~~paragraph (1)(b) or the ratio of net worth to premiums written required by paragraph (1)(e)~~ is not maintained.

(c) Proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings regarding the association have been commenced in any state.

(d) The financial condition or business practices of the association otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(3)(4) Violation of this part by an insurer shall be grounds for suspension or revocation of the insurer's certificate of authority in this state.

Section 10. Section 634.309, Florida Statutes, is hereby repealed.

~~634.309 Procedure to suspend or revoke license.—Except when a hearing is expressly not required under s. 634.308 or s. 120.60, no order suspending or revoking a home warranty association's license shall be effective unless made after notice and hearing pursuant to chapter 120.~~

Section 11. Section 634.310, Florida Statutes, is amended to read:

634.310 Order, notice of suspension or revocation of license; effect; publication.—

(1) Suspension or revocation of a home warranty association's license shall be by order mailed to the association by registered or certified mail. The department shall promptly also give notice of such suspension or revocation to the association's *sales representatives* ~~contracting sales agents~~ in this state, of record in the department's office. The association shall not solicit or write any new warranties in this state during the period of any such suspension or revocation.

(2) In its discretion, the department may cause notice of any such revocation or suspension to be published in one or more newspapers of general circulation published in this state.

Section 12. Section 634.311, Florida Statutes, is amended to read:

634.311 Duration of suspension; association's obligations during suspension period; reinstatement.—

(1) Suspension of a home warranty association's license shall be for such period, not to exceed 1 year, as is fixed in the order of suspension, unless such suspension, or the order upon which the suspension is based, is modified, rescinded, or reversed.

(2) During the period of suspension, the association shall file its annual statement and pay fees, licenses, and taxes as required under this part as if the license had continued in full force.

(3) Upon expiration of the suspension period, if within such period the license has not otherwise terminated, the association's license shall automatically be reinstated, unless it is determined, ~~upon notice and hearing~~, that the causes of the suspension have not been removed or that the association is otherwise not in compliance with the requirements of this part.

(4) Upon reinstatement of the association's license, or reinstatement of the certificate of authority of an insurer, following suspension, the authority of the association's *sales representatives* ~~contracting sales agents~~ in this state to represent the association or insurer shall likewise be reinstated. The department shall promptly notify the association ~~and its contracting sales agents in this state, of record in its office~~, of such reinstatement.

Section 13. Section 634.3112, Florida Statutes, is created to read:

634.3112 *Administrative fine in lieu of suspension or revocation of license —*

(1) *If it is found that one or more grounds exist for the suspension, revocation or refusal to renew any license issued under this part, the department may, in lieu of such revocation or suspension, impose a fine upon the association.*

(2) *With respect to any nonwillful violation, such fine shall not exceed \$500 per violation. In no event shall such fine exceed an aggregate amount of \$5,000 for all nonwillful violations arising out of the same action. When an association discovers a nonwillful violation, the association shall correct the violation and, if restitution is due, make restitution to all affected persons. Such restitution shall include interest at 12 percent per year from either the date of the violation or the date of inception of the affected person's policy, at the association's option.*

(3) *With respect to any knowing and willful violation of a lawful order or rule of the department or a provision of this part, the department may impose a fine upon the association in an amount not to exceed \$2,500 for each such violation. In no event shall such fine exceed an aggregate amount of \$25,000 for all knowing and willful violations arising out of the same action. In addition to such fines, an association shall make restitution when due in accordance with the provisions of subsection (2).*

(4) *The failure of an association to make restitution when due, as required under this section, shall constitute a willful violation of this code. However, if an insurer in good faith is uncertain as to whether any restitution is due or as to the amount of such restitution, it shall promptly notify the department of the circumstances and the failure to make restitution pending a determination thereof shall not constitute a violation of this part.*

Section 14. Section 634.312, Florida Statutes, is amended to read:

## 634.312 Filing, approval of forms.—

(1) No warranty form or related form shall be issued or used in this state unless it has been filed with and approved by the department.

(2) Every such filing shall be made not less than 30 days in advance of issuance or use. At the expiration of 30 days from date of filing, a form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by written order of the department.

~~(3) The department shall not approve any such form which is subject to renewal.~~

## Section 15. Section 634.3125, Florida Statutes, is created to read:

634.3125 *Grounds for disapproval of forms.*—The department shall disapprove any form filed under s. 634.312 or withdraw any previous approval if the form:

(1) Is in violation of or does not comply with this part.

(2) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions or conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(3) Has any title, heading, or other indication of its provisions which is misleading.

(4) Is printed or otherwise reproduced in such a manner as to render any material provision of the form illegible.

(5) Fails to attain a reasonable degree of readability, simplicity and conciseness.

(6) Is subject to renewal.

## Section 16. Section 634.3126, Florida Statutes, is created to read:

634.3126 *Rate filings.*—Each insurer and home warranty association shall file with the department for informational purposes the rate to be charged for each warranty and the premium, including all modifications of rates and premiums. Every filing shall state the proposed effective date.

## Section 17. Section 634.313, Florida Statutes, is amended to read:

634.313 Tax on premiums ~~and assessments~~; annual statement; reports.—

(1) In addition to paying the license *fee taxes* provided for in this part for home warranty associations and license taxes provided in the Insurance Code as to insurers, each such association and each such insurer shall, annually on or before March 1, file with the department its annual statement, in the form prescribed by the department, showing all premiums ~~or assessments~~ received by it in connection with the issuance of warranties in this state during the preceding calendar year and using accounting principles which will enable the department to ascertain whether the reserve required by ~~s. 634.308(1)(b)~~ has been maintained. Further, each association and each insurer shall pay to the State Treasurer a tax in an amount equal to 2 percent of the amount of such premiums ~~or assessments~~ so received; however, the same exemptions and credits as set forth in ss. 624.512 and 624.514 of the Insurance Code allowed to insurers shall apply to insurers and home warranty associations under this part.

(2) Premiums ~~and assessments~~ received by insurers and taxed under this section shall not be subject to any premium tax provided for in the Insurance Code.

(3) *Each annual statement shall contain, but not be limited to, a balance sheet listing all assets and liabilities, a schedule used to compute net assets and earned surplus including all expense, premium income, and other income items, and a schedule used to report all claims statistics. The annual statement shall be completed using generally accepted accounting principles except where otherwise provided in this part.*

~~(4)(3)~~ Any association or insurer neglecting to file the annual statement in the form and within the time provided by this section shall forfeit up to \$100 for each day during which such neglect continues, and, upon notice by the department to that effect, its authority to do business in this state shall cease while such default continues. The department shall deposit all sums collected by it under this section to the credit of the Insurance Commissioner's Regulatory Trust Fund.

(5)(4) In addition to an annual statement, the department may require of licensees, under oath and in the form prescribed by it, such additional regular or special reports as it may deem necessary to the proper supervision of licensees under this part.

## Section 18. Section 634.3135, Florida Statutes, is created to read:

634.3135 *Office records required.*—Each licensed home warranty association, as a minimum requirement for permanent office records, shall maintain:

(1) A complete set of accounting records, including a general ledger, cash receipts and disbursements journals, accounts receivable registers, and accounts payable registers.

(2) A detailed warranty register, in numerical order by warranty number, of warranties in force. The register shall include the warranty number, date of issue, issuing sales representatives, name of warranty holder, location of the property, warranty period, gross premium, commission to sales representatives, and net premium.

(3) A detailed claims register which shall include the warranty number, date of issue, date of claim, issuing sales representative, amount of claim, date claim paid, and, if applicable, disposition other than payment and reason therefor.

(4) Nothing in this section shall prohibit an association from maintaining office records by computer.

## Section 19. Section 634.314, Florida Statutes, reads:

634.314 Examination of associations.—Home warranty associations licensed under this part shall be subject to periodic examinations by the department, in the same manner and subject to the same terms and conditions as apply to insurers under part II of chapter 624 of the Insurance Code.

## Section 20. Section 634.315, Florida Statutes, is amended to read:

634.315 Service of process; ~~appointment of Insurance Commissioner as process agent.~~—Home warranty associations shall be subject to service of process in the same manner and subject to the same terms, conditions, and fees as are applicable to insurers under chapter 624.

~~(1) Each association, whether domestic or foreign, applying for authority to transact business in this state shall file with the department, on a form furnished by the department, its appointment of the Insurance Commissioner and Treasurer, and his successors in office, as its attorney to receive service of all legal process issued against it in any civil action or proceeding in this state, and agree that process so served shall be valid and binding upon the association. The appointment shall be irrevocable, shall bind the association and any successor in interest as to the assets or liabilities of the association, and shall remain in effect as long as there are outstanding in this state any obligations or liability of the association resulting from its warranty transactions therein.~~

~~(2) At the time of appointment of the Insurance Commissioner and Treasurer as its process agent, the association shall file with the department a designation of the name and address of the person to whom process against it, served upon the Insurance Commissioner and Treasurer, is to be forwarded. The association may change the designation at any time by a new filing.~~

## Section 21. Section 634.316, Florida Statutes, is hereby repealed:

~~634.316 Serving process.—~~

~~(1) Service of process upon the Insurance Commissioner and Treasurer as process agent of the home warranty association shall be made by serving copies in triplicate of the process upon the Insurance Commissioner and Treasurer or upon his assistant, deputy, or other person in charge of his office. Upon receiving such service, the Insurance Commissioner and Treasurer shall file one copy with the department, return one copy with his admission of service, and promptly forward one copy of the process by registered or certified mail to the person last designated by the association to receive the same, as provided under s. 634.316.~~

~~(2) Process served upon the Insurance Commissioner and Treasurer, and any copy thereof forwarded as provided in this section, shall for all purposes constitute valid and binding service upon the association.~~

## Section 22. Section 634.317, Florida Statutes, is amended to read:

634.317 Registration required.—No person shall solicit, negotiate, advertise, or effectuate home warranty contracts for remuneration in this state unless such person is registered as a sales representative contracting sales agent or is utilized by a contracting sales agent. If a real estate office sells or issues home warranties, only one real estate broker per office licensed under chapter 475 is required to be registered as a sales representative under this part. The broker acting as sales representative shall be responsible for the warranties sold or issued through the office.

Section 23. Section 634.318, Florida Statutes, is amended to read:

634.318 Sales representatives ~~Contracting sales agents~~ to be registered.—Every home warranty association or insurer shall, on forms prescribed by the department, register, on or before October 1 of each even-numbered year, the name and business address of each sales representative ~~contracting sales agent~~ utilized by it in Florida and shall, within 30 days after termination of the contract, notify the department of such termination. At the time of said ~~biennial~~ annual registration, a \$40 ~~\$20~~ filing fee for each sales representative ~~contracting sales agent~~ shall be paid by the warranty association or insurer to the department. Any sales representative ~~contracting sales agent~~ utilized subsequent to the October 1 filing date shall be registered with the department within 10 days after such utilization. No employee or sales representative ~~contracting sales agent~~ of a home warranty association or insurer shall directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified and licensed therefor under the Insurance Code.

Section 24. Section 634.319, Florida Statutes, is amended to read:

634.319 Reporting and accounting for funds.—

(1) All funds belonging to insurers, home warranty associations, or others, received by a sales representative ~~contracting sales agent~~ in transactions under his registration shall be trust funds so received by such sales representative agent in a fiduciary capacity, and the sales representative agent, in the applicable regular course of business, shall account for and pay the same to the insurer, association, warranty holder, or other person entitled thereto.

(2) Any sales representative ~~contracting sales agent~~ who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use shall upon conviction be guilty of theft ~~larceny~~, punishable as provided in s. 812.014 ~~s. 812.021~~.

Section 25. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of registration of sales representatives ~~contracting sales agents~~.—The department shall deny, suspend, revoke, or refuse to renew or continue the registration of any sales representative ~~contracting sales agent~~ if it is found that, as to the sales representative agent, any one or more of the following applicable grounds exist:

(1) Material misstatement, misrepresentation, or fraud in registration.

(2) The registration is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(3) Willful misrepresentation of any warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(4) In the adjustment of claims arising out of warranties, he has materially misrepresented to a warranty holder or other interested party the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract.

(5) For demonstrated lack of fitness or trustworthiness to engage in the business of warranty.

(6) For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the registration.

(7) Fraudulent or dishonest practices in the conduct of business under the registration.

(8) Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the registration.

(9) For rebating, or attempting to rebate, or for unlawfully dividing, or offering to divide, his commission with another.

(10) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this part.

(11) The sales representative has been found guilty of or has pled guilty or nolo contendere to a felony, in this state or any other state, which involves moral turpitude, without regard to whether judgment of conviction has been entered by the court.

Section 26. Section 634.321, Florida Statutes, is amended to read:

634.321 Grounds for discretionary refusal, suspension, or revocation of registration of sales representatives ~~contracting sales agents~~.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the registration of any sales representative ~~contracting sales agent~~ if it is found, after notice and hearing thereon as provided in s. 634.322, that as to the sales representative agent any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.320:

(1) Any cause for which granting of the registration could have been refused had it then existed and been known to the department.

(2) Violation of any provision of this part, or of any other law applicable to the business of warranties, in the course of dealings under the registration.

(3) Violation of any lawful order or rule of the department.

(4) Failure or refusal to pay over, upon demand, to any home warranty association or insurer he represents or has represented any money coming into his hands, belonging to the association or insurer.

(5) In the conduct of business under the registration, he has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under part VII of chapter 626 of the Insurance Code, or has otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest.

(6) The sales representative has been found guilty of or has pled guilty or nolo contendere to a felony, in this state or any other state, without regard to whether a judgment of conviction has been entered by the court. ~~Conviction of a felony.~~

Section 27. Section 634.322, Florida Statutes, is amended to read:

634.322 Procedure for refusal, suspension, or revocation of registration of sales representatives ~~contracting sales agents~~.—

(1) If any sales representative ~~contracting sales agent~~ is convicted by a court of a violation of any provision of this part, the registration of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the department.

~~(2) As to a registration denied, suspended, or revoked by the department, the person aggrieved thereby shall have the right to a hearing thereon pursuant to chapter 120.~~

~~(3) If, after an investigation or upon other evidence, the department has reason to believe that there may exist any one or more grounds for the suspension or revocation of, or refusal to renew or continue, the registration of any contracting sales agent, as such grounds are specified in ss. 634.320 and 634.321, the department may proceed to suspend, revoke, or refuse to renew or continue the registration, as the case may be.~~

(2)(4) Whenever it appears that any licensed insurance agent has violated the provisions of this part, the department may take such action relative thereto as is authorized by the Insurance Code as for a violation of the Insurance Code by such agent.

Section 28. Section 634.325, Florida Statutes, is created to read:

634.325 Duration of suspension or revocation of registration.—

(1) The department shall, in its order suspending a registration, specify the time period during which the suspension is to be effective. Such period shall not exceed 1 year. The registration shall remain suspended during the period specified, subject to any rescission or modifi-

ation by the department. A registration which has been suspended may be reinstated, but the department shall not grant such reinstatement if it determines that the circumstances for which the registration was suspended still exist or are likely to recur.

(2) No person whose registration has been revoked by the department shall have the right to apply for another registration within 2 years from the effective date of revocation, or, if judicial review of the revocation is sought, within 2 years from the date of the final court order or decree affirming the revocation. The department shall not grant a new registration if it determines that the circumstances for which the previous registration was revoked still exist or are likely to recur.

(3) The department shall not grant or issue any registration to any individual whose registration has been twice revoked.

(4) During the period of suspension, or after revocation of the registration, the former registrant shall not engage in or attempt to engage in any transaction or business for which a registration is required under this part.

Section 29. Section 634.323, Florida Statutes, is amended to read:

634.323 Administrative fine in lieu of suspension or revocation of registration.—

(1) If, pursuant to procedures provided for in this part, it is found that one or more grounds exist for the suspension or revocation of, or refusal to renew or continue, any registration issued under this part, on a first offense, ~~and except when such suspension, revocation, or refusal is mandatory,~~ an order may be entered imposing upon the registrant, in lieu of such suspension, revocation, or refusal, an administrative penalty for each violation in the amount of \$500 ~~\$100~~ or, in the event of willful misconduct or willful violation on the part of the registrant, an administrative fine of \$1,000 ~~\$500~~. The administrative penalty may be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the registrant in connection with any transaction to which the grounds for suspension, revocation, or refusal related.

(2) The order may allow the registrant a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the registrant fails to pay the penalty in its entirety to the department at its office in Tallahassee within the period so allowed, the registration of the registrant shall stand suspended or revoked, or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

Section 30. Section 634.324, Florida Statutes, is amended to read:

634.324 Disposition of taxes and fees.—All license ~~fees~~ ~~taxes~~, ~~taxes~~ premiums and assessments, registration fees, and administrative fines and penalties collected under this part from home warranty associations and sales representatives ~~contracting sales agents~~ shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund.

Section 31. Section 634.325, Florida Statutes, reads:

634.325 Insurance business not authorized.—Nothing in this part shall be deemed to authorize any home warranty association to transact any business other than that of home warranty as herein defined or otherwise to engage in the business of insurance, unless such association is authorized therefor as an insurer under a certificate of authority issued by the department under the Insurance Code of this state.

Section 32. Section 634.326, Florida Statutes, is amended to read:

634.326 Fronting not permitted.—No authorized insurer or licensed home warranty association shall act as a fronting company for any unauthorized insurer or unlicensed home warranty association. A "fronting company" is an authorized insurer or licensed home warranty association which, by reinsurance or otherwise, generally transfers to one or more unauthorized insurers or unlicensed home warranty associations ~~substantially all of the risk of loss under warranties written by it in this state.~~

Section 33. Section 634.327, Florida Statutes, reads:

634.327 Applicability to warranty on new home.—This part shall not apply to any program offering a warranty on a new home which is underwritten by an insurer licensed to do business in the state when the insurance policy underwriting such program has been filed with and approved by the Department of Insurance as required by law.

Section 34. Section 634.3275, Florida Statutes, is created to read:

634.3275 Investigatory records.—All active investigation records of the department made or received pursuant to this part, and any active examination records necessary to complete an active investigation, shall be confidential and shall not be subject to public inspection under the provisions of chapter 119 for so long as reasonably necessary to complete the investigation.

Section 35. Section 634.328, Florida Statutes, reads:

634.328 Penalty for violation.—Any individual who knowingly makes a false or otherwise fraudulent application for license or registration under this part, or who knowingly violates any provision hereof, shall, in addition to any applicable denial, suspension, or revocation of, or refusal to renew or continue, any license or registration, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of violation shall be considered a separate offense.

Section 36. Section 634.3284, Florida Statutes, is created to read:

634.3284 Civil remedy.—

(1) Any person damaged by a violation of the provisions of this part may bring a civil action against a person violating such provisions in the circuit court of the county in which the alleged violator resides, or has his principal place of business, or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or \$500, whichever is greater, together with court costs and reasonable attorney's fees incurred by the plaintiff.

(2) No punitive damages shall be awarded under this section unless the acts giving rise to the violation occur with such frequency as to indicate a general business practice and these acts are:

- (a) Willful, wanton, and malicious; or
- (b) In reckless disregard for the rights of any insured.

Any person who pursues a claim under this subsection shall post in advance the costs of discovery. Such costs shall be awarded to the insurer if no punitive damages are awarded to the plaintiff.

(3) As a condition precedent to bringing an action under this section, the department and the insurer shall be given notice of the violation. The notice shall state with specificity the facts which allegedly constitute the violation and the law which the plaintiff is relying upon. No action shall lie if, within 30 days thereafter, the damages are paid or the circumstances giving rise to the violation are corrected.

(4) This section shall not be construed to authorize a class action suit against a home warranty association or a civil action against the department, its employees, or the Insurance Commissioner.

Section 37. Section 634.3285, Florida Statutes, is created to read:

634.3285 Acquisition of controlling stock.—No person may merge or consolidate with or obtain control of a home warranty association unless prior thereto documentation is filed with the department demonstrating that the requirements for issuance of a license under this part will be satisfied.

Section 38. Section 634.329, Florida Statutes, reads:

634.329 Dissolution or liquidation.—Any dissolution or liquidation of a corporation subject to the provisions of this part shall be under the supervision of the department, which shall have all powers with respect thereto granted to it under the laws of this state with respect to the dissolution and liquidation of property and casualty insurance companies pursuant to chapter 631.

Section 39. Sections 634.335, 634.336, 634.337, 634.338, 634.339, 634.340, 634.341, 634.342, and 634.343, Florida Statutes, are created to read:

634.335 Unfair methods of competition and unfair or deceptive acts or practices prohibited.—No person shall engage in this state in any trade practice which is defined in this part as, or determined pursuant to s. 634.337 to be, an unfair method of competition or an unfair or deceptive act or practice involving the business of home warranty.

634.336 *Unfair methods of competition and unfair or deceptive acts or practices defined.*—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(1) **MISREPRESENTATION AND FALSE ADVERTISING.**—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any home warranty contract;

(b) Is misleading or is a misrepresentation as to the financial condition of any person;

(c) Uses any name or title of any contract misrepresenting the true nature thereof; or

(d) Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any home warranty contract.

(2) **FALSE INFORMATION AND ADVERTISING GENERALLY.**—Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

(a) In a newspaper, magazine, or other publication;

(b) In the form of a notice, circular, pamphlet, letter, or poster;

(c) Over any radio or television station; or

(d) In any other way,

an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of home warranty, which is untrue, deceptive, or misleading.

(3) **DEFAMATION.**—Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of, or derogatory to, any person, and which is calculated to injure such person.

(4) **FALSE STATEMENTS AND ENTRIES.**—

(a) Knowingly:

1. Filing with any supervisory or other public official;

2. Making, publishing, disseminating, or circulating;

3. Delivering to any person;

4. Placing before the public; or

5. Causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement; or

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person.

(5) **UNFAIR CLAIM SETTLEMENT PRACTICES.**—

(a) Attempting to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the warranty holder;

(b) A material misrepresentation made to the warranty holder for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract on less favorable terms than those provided in, and contemplated by, such contract; or

(c) Committing or performing with such frequency as to indicate a general business practice, any of the following:

1. Failing to properly investigate claims;

2. Misrepresenting pertinent facts or contract provisions relating to coverages at issue;

3. Failing to acknowledge and act promptly upon communications with respect to claims;

4. Denying claims without conducting reasonable investigations based upon available information;

5. Failing to affirm or deny coverage of claims upon written request of the warranty holder within a reasonable time after proof-of-loss statements have been completed; or

6. Failing to promptly provide a reasonable explanation to the warranty holder of the basis in the contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(6) **FAILURE TO MAINTAIN COMPLAINT-HANDLING PROCEDURES.**—Failure of any person to maintain a complete record of a written complaint received for a 3-year period from the date of the receipt of the written complaint.

(7) **REFUSAL TO ISSUE A CONTRACT.**—The refusal to issue a contract solely because of an individual's race, color, creed, marital status, sex, or national origin.

(8) **COERCION OF DEBTORS.**—When a home warranty is sold as authorized by s. 634.301(3)(b), requiring as a condition precedent or condition subsequent to the lending of the money or extension of the credit, or any renewal thereof, that the person to whom such credit is extended purchase a home warranty, or failing to provide the advice required by s. 634.344, or failing to comply with the provisions of s. 634.345.

634.337 *Power of department.*—The department shall have the power to examine and investigate the affairs of every person involved in the business of home warranty in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 634.335.

634.338 *Defined practices; hearings, witnesses, appearances, production of books, and service of process.*—

(1) Whenever the department has reason to believe that any person has engaged, or is engaging, in this state, in any unfair method of competition or any unfair or deceptive act or practice as defined in s. 634.336, or is engaging in the business of home warranty without being properly licensed as required by this part, and that a proceeding by it in respect thereto would be to the interest of the public, it shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(2) The department or a duly empowered hearing officer shall, during the conduct of such hearing, have those powers enumerated in s. 120.58; however, the penalties for failure to comply with a subpoena or with an order directing discovery shall be limited to a fine not to exceed \$1,000 per violation.

(3) Statements of charges, notices, and orders under this part may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process setting forth the manner of the service shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, certified and mailed as aforesaid, shall be proof of service of the same.

634.339 *Cease and desist and penalty orders.*—After the hearing provided in s. 634.338, the department shall enter a final order in accordance with s. 120.59. If it is determined that the person charged has engaged in an unfair or deceptive act or practice or the unlawful transaction of home warranty business, the department shall also issue an order requiring the violator to cease and desist from engaging in such method of competition, act or practice, or the unlawful transaction of home warranty business. Further, the department may, at its discretion, order any one or more of the following:

(1) Suspension or revocation of the person's license, or eligibility for any license, if he knew, or reasonably should have known, that he was in violation of this part.

(2) If it is determined that the person charged has provided or offered to provide home warranties without proper licensure, an administrative penalty not to exceed \$1,000 for each home warranty contract offered or effectuated.

634.340 Appeals from the department.—Any person subject to an order of the department under s. 634.339 may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeal from the orders of the department in general under s. 120.68

634.341 Penalty for violation of cease and desist orders.—Any person who violates a cease and desist order of the department under s. 634.339 while such order is in effect, after notice and hearing as provided in s. 634.338, shall be subject, at the discretion of the department, to any one or more of the following:

(1) A monetary penalty of not more than \$25,000 as to all matters determined in such hearing.

(2) Suspension or revocation of such person's license, or eligibility to hold a license.

634.342 Injunction.—In addition to the penalties and other enforcement provisions of this part, in the event any person shall violate s. 634.303 or s. 634.318 or any rule adopted or promulgated pursuant thereto, the department is authorized to resort to proceedings for injunction in the circuit court of the county where such person shall reside or have his principal place of business, and therein apply for such temporary and permanent orders as the department may deem necessary to restrain such person from engaging in any such activities, until such person shall have complied with such provisions and rules.

634.343 Civil liability.—The provisions of this part are cumulative to rights under the general civil and common law, and no action of the department shall abrogate such rights to damages or other relief in any court.

Section 40. Section 634.344, Florida Statutes, is created to read:

634.344 Coercion of debtor prohibited.—

(1) When a home warranty is sold as authorized by s. 634.301(3)(b), no person may require as a condition precedent or condition subsequent to the lending of the money or extension of the credit, or any renewal thereof, that the person to whom such money or credit is extended purchase a home warranty.

(2) When a home warranty is purchased in connection with the lending of money as authorized by s. 634.301(3)(b), the insurer or home warranty association or the insurer's or the home warranty association's sales representative shall advise the borrower or purchaser in writing that Florida law prohibits the lender from requiring the purchase of a home warranty as a condition precedent or condition subsequent to the making of the loan.

Section 41. Section 634.345, Florida Statutes, is created to read:

634.345 Buyer's right to cancel.—Every warranty sold in connection with a loan as authorized by s. 634.301(3)(b) shall contain a provision providing that the purchaser or borrower may cancel the warranty within 10 days of purchase without penalty and upon such cancellation the insurer or home warranty association shall promptly refund the premium paid. This provision may be included in the warranty or by rider or endorsement thereto.

Section 42. Notwithstanding the provisions of the Regulatory Sunset Act, or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, sections 634.301, 634.302, 634.303, 634.304, 634.305, 634.306, 634.307, 634.308, 634.310, 634.311, 634.312, 634.313, 634.314, 634.315, 634.317, 634.318, 634.319, 634.320, 634.321, 634.322, 634.323, 634.324, 634.325, 634.326, 634.327, 634.328, and 634.329, Florida Statutes, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended herein.

Section 43. Part II of chapter 634, Florida Statutes, is repealed on October 1, 1993, and shall be reviewed by the Legislature pursuant to the Regulatory Sunset Act, s. 11.61, Florida Statutes.

Section 44. Section 3 of chapter 81-148, Laws of Florida, is hereby repealed.

Section 45. This act shall take effect October 1, 1983, except that section 44 shall take effect July 1, 1983; and provided that the provisions of sections 5 and 9 of this act shall apply only to contracts entered into on or after the effective date of this act.

**Amendment 2**—On page 1, in the title, line 1, strike the entire title, and insert:

A bill to be entitled An act relating to home warranty associations; amending s. 634.301, Florida Statutes, redefining "home warranty association" or "association," "home warranty" or "warranty," and "premium"; changing "contracting sales agent" to "sales representative"; deleting definition of "person"; adding definitions of "net assets," "stated capital," "surplus," "earned surplus," "capital surplus" and "Insurance Code"; amending s. 634.302, Florida Statutes, relating to powers and rules of the Department of Insurance; amending s. 634.303, Florida Statutes, relating to licenses; amending s. 634.304, Florida Statutes, relating to qualifications for licensure; creating s. 634.3045, Florida Statutes, relating to financial requirements for issuance or renewal of licenses; amending s. 634.305, Florida Statutes, relating to security deposits; providing for deposit of additional securities under certain circumstances; requiring notice of termination of a surety bond and requiring replacement; providing a penalty; amending s. 634.306, Florida Statutes, relating to application for and issuance of licenses; deleting the requirement that the department refund the annual license fee when refusing to issue a license; amending s. 634.307, Florida Statutes, relating to license expiration and renewal; changing expiration date from September 30 to June 1 on licenses issued; amending s. 634.308, Florida Statutes, relating to suspension and revocation of licenses; repealing s. 634.309, Florida Statutes, relating to procedures for suspending or revoking licenses; amending s. 634.310, Florida Statutes, relating to notice of suspension or revocation of license; amending s. 634.311, Florida Statutes, relating to duration of suspension and reinstatement of licenses; creating s. 634.3112, Florida Statutes, allowing administrative fines in lieu of suspension or revocation; amending s. 634.312, Florida Statutes, relating to filing and approval of warranty forms; creating s. 634.3125, Florida Statutes, providing grounds for disapproval of forms; creating s. 634.3126, Florida Statutes, requiring rate filings; amending s. 634.313, Florida Statutes, relating to tax on premiums, annual statements and reports; providing requirements for annual statements; creating s. 634.3135, Florida Statutes, requiring home warranty associations to maintain office records; amending s. 634.315, Florida Statutes, relating to service of process; deleting provisions for appointment of Insurance Commissioner as process agent; repealing s. 634.316, Florida Statutes, relating to service of process; amending s. 634.317, Florida Statutes, requiring registration by sales representatives; amending s. 634.318, Florida Statutes, providing requirements for registration; amending s. 634.319, Florida Statutes, requiring reporting and accounting for funds by the sales representative; providing penalties; amending s. 634.320, Florida Statutes, relating to compulsory refusal, suspension or revocation of registration of sales representatives; amending s. 634.321, Florida Statutes, relating to discretionary refusal, suspension or revocation of registration of sales representatives; amending s. 634.322, Florida Statutes, relating to procedure for refusal, suspension or revocation of registration of sales representatives; creating s. 634.3225, Florida Statutes, relating to duration of suspension or revocation of registration; amending s. 634.323, Florida Statutes, relating to administrative fines in lieu of suspension or revocation of registration; amending s. 634.324, Florida Statutes, relating to disposition of taxes and fees; amending s. 634.326, Florida Statutes, prohibiting fronting by insurers or licensed home warranty associations; creating s. 634.3275, Florida Statutes, relating to investigatory records; creating s. 634.3284, Florida Statutes, relating to civil remedies; creating s. 634.3285, Florida Statutes, relating to acquisition of controlling stock; creating s. 634.335, Florida Statutes, prohibiting unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.336, Florida Statutes, defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.337, Florida Statutes, relating to powers of the department; creating s. 634.338, Florida Statutes, relating to hearings, witnesses, appearances, production of books and service of process; creating s. 634.339, Florida Statutes, relating to cease and desist and penalty orders; creating s. 634.340, Florida Statutes, relating to appeals from the department; creating s. 634.341, Florida Statutes, providing penalties; creating s. 634.342, Florida Statutes, providing for injunction; creating s. 634.343, Florida Statutes, relating to civil liability; creating s. 634.344, Florida Statutes, prohibiting coercion of debtors; creating s. 634.345, Florida Statutes, relating to the right of the purchaser or borrower to cancel; providing for sunset review and repeal; repealing section 3 of chapter 81-148, Laws of Florida, removing duplicate sunset provisions; providing effective dates.

Senator Thomas moved the following amendments which were adopted:

**Amendment 1 to House Amendment 1**—On page 35, strike lines 7-30; on page 36, strike lines 1-12

**Amendment 2 to House Amendment 1**—On page 10, line 14, strike "wherever written"

**Amendment 3 to House Amendment 1**—On page 10, line 10, after the period insert: Net assets may be less than 1/6 of premiums written provided the association has net assets of not less than \$500,000 and maintains a funded, unearned premium reserve account consisting of unencumbered assets equal to a minimum of 40 percent of the gross written premiums received by it from all warranty contracts in force which shall be held in the form of cash or invested in securities for investments as provided in Part II, Chapter 625.

**Amendment 4 to House Amendment 1**—On page 10, line 5, strike "wherever written"

**Amendment 1 to House Amendment 2**—In title, on page 3, lines 27-28, strike "creating s. 634.3284, Florida Statutes, relating to civil remedies"

On motions by Senator Thomas, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 207 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fox	Jennings	Neal
Beard	Frank	Johnston	Plummer
Carlucci	Girardeau	Kirkpatrick	Rehm
Castor	Grant	Langley	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Meek	Vogt
Dunn	Hill	Myers	Weinstein

Nays—None

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed with amendments by the required Constitutional three-fifths vote of the membership of the House—

**CS for SJR 46**—A joint resolution proposing an amendment to Section 2 of Article III of the State Constitution relating to legislative privilege for speech or debate.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 1, line 27, strike all of line 27 and insert: *to any speech or debate in either house, and they shall not be*

**Amendment 2**—On page 2, lines 7 and 8, strike all of said lines and insert: *Provides that legislators' speech or debate in either house of the Legislature is privileged and*

Senators Girardeau and Barron offered the following amendments which were moved by Senator Girardeau and adopted:

**Amendment 1 to House Amendment 1**—On page 1, lines 2 and 3, strike everything after the colon on said lines and insert: *to any speech or debate relating to legislative matters or duties, and they shall not be*

**Amendment 1 to House Amendment 2**—On page 1, line 3, strike all of said line and insert: *relating to legislative matters or duties is privileged and*

On motions by Senator Girardeau, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SJR 46 as amended was read in full as follows:

**CS for SJR 46**—A joint resolution proposing an amendment to Section 2 of Article III of the State Constitution relating to legislative privilege for speech or debate.

*Be It Resolved by the Legislature of the State of Florida:*

That the amendment to Section 2 of Article III 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 1984:

### ARTICLE III LEGISLATURE

#### SECTION 2. Members; officers; legislative privilege.—

(a) Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a Clerk to serve at its pleasure.

(b) *Members of the senate and the house of representatives shall in all cases be privileged with regard to any speech or debate relating to legislative matters or duties and they shall not be questioned in any other place with respect thereto.*

(c) The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

#### SPEECH OR DEBATE PRIVILEGE

Provides that legislators' speech or debate relating to legislative matters or duties is privileged and that legislators shall not be subject to compulsory process with regard to legislative actions in accordance with the corresponding federal constitutional provisions.

—and passed by the required constitutional three-fifths vote of the membership, and was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Kirkpatrick	Neal
Barron	Girardeau	Langley	Plummer
Beard	Grant	Malchon	Rehm
Castor	Grizzle	Mann	Scott
Childers, W. D.	Hair	Margolis	Stuart
Crawford	Henderson	McPherson	Thurman
Dunn	Jenne	Meek	Weinstein
Fox	Johnston	Myers	

Nays—1

Carlucci

Vote after roll call:

Yea—Gordon, Thomas, Vogt

*The Honorable Curtis Peterson, President*

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

**SB 404**—A bill to be entitled An act relating to the Department of Transportation; amending s. 316.550, Florida Statutes, increasing the maximum time period and maximum allowable fee for the issuance of certain permits; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 2, line 9, strike the entire line and insert: *more than 36 12 months. The department may charge an annualized fee for blanket permits, the fee for which shall not to exceed*

**Amendment 2**—On page 2, line 14, insert the following language: *The department may not refuse to issue a permit to any person under this section solely on the basis that such person allegedly*

violated this chapter or the rules promulgated hereunder until a final order is entered with regard to such violation pursuant to Chapter 120, Florida Statutes.

**Amendment 3**—On page 1, in the title, line 6, after the semicolon “;” insert: prohibiting the department from refusing to issue permits under certain circumstances;

On motions by Senator Beard, the Senate concurred in the House amendments.

SB 404 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Neal
Barron	Gersten	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Rehm
Carlucci	Gordon	Malchon	Stuart
Castor	Grant	Mann	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Meek	
Fox	Jennings	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**SB 664**—A bill to be entitled An act relating to public records; amending s. 119.01, Florida Statutes, requiring the establishment of agency programs for the disposal of certain public records; amending s. 119.021, Florida Statutes, relating to the designation of custodian; amending s. 119.031, Florida Statutes, relating to the keeping of records in safe places; amending s. 119.041, Florida Statutes, providing for the disposal of records no longer needed; amending s. 119.09, Florida Statutes; requiring public officials to assist the Division of Archives, History and Records Management by preparing certain inventories for the division; requiring the division, rather than the agency having custody of records, to establish a time period for the retention or disposal of records; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 1, line 21, after the colon, insert:

Section 1. Paragraph (b) of subsection (2) of section 119.07, Florida Statutes, 1982 Supplement, is amended, paragraph (m) is added to subsection (3) of said section, and subsection (4) of said section is amended to read:

119.07 Inspection and examination of records; exemptions.—

(2)

(b) In any action in which an exemption is asserted pursuant to paragraph (e), paragraph (f), or paragraph (g), or paragraph (m) of subsection (3), the record or records shall be submitted in camera to the court for a de novo inspection. In the case of an exemption asserted pursuant to paragraph (d) of subsection (3), an in camera inspection shall be discretionary with the court. If the court finds no basis for the assertion of the exemption, it shall order the records to be disclosed.

(3)

(m) Any information revealing the substance of a confession of a person arrested or of witness lists exchanged pursuant to the provisions of Rule 3.220, Florida Rules of Criminal Procedure, is exempt from the provisions of subsection (1), until such time as the charge is finally determined by adjudication, dismissal or other disposition.

(4) Nothing herein shall be construed to exempt from subsection (1) records made part of a court file and not specifically closed by order of court except as provided in paragraphs (e), (f), and (g), and (m) of subsection (3).

(Renumber the subsequent sections.)

**Amendment 2**—On page 1, in the title, line 2 after the semicolon, insert: amending s. 119.07(2)(b) and (4), Florida Statutes, 1982 Supplement, and adding paragraph (3)(m) thereto; exempting confessions and witness lists from public inspection until final determination of charges; providing for court review;

On motions by Senator Henderson, the Senate concurred in the House amendments.

SB 664 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Johnston	Myers
Barron	Frank	Kirkpatrick	Neal
Beard	Girardeau	Langley	Plummer
Carlucci	Grant	Malchon	Scott
Castor	Grizzle	Mann	Stuart
Childers, D.	Henderson	Margolis	Thomas
Childers, W. D.	Hill	Maxwell	Thurman
Crawford	Jenne	McPherson	Vogt
Dunn	Jennings	Meek	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**SB 51**—A bill to be entitled An act relating to clerks of the circuit courts or comptroller; creating s. 28.247, Florida Statutes; requiring the office of the clerk of the circuit court or comptroller to accept personal checks for the payment of traffic fines and related court costs; eliminating personal liability for the acceptance of such checks; providing procedure with respect to bad checks; providing that the provisions of s. 832.07(2), Florida Statutes, relating to certain identity information with respect to checks and drafts, shall not be applicable to this section; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 2**—On page 1, line 22, strike “shall” and insert “may”

On motion by Senator Beard, the Senate concurred in the House amendment.

SB 51 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Langley	Plummer
Barron	Girardeau	Malchon	Stuart
Beard	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	Maxwell	Vogt
Childers, W. D.	Hill	Meek	Weinstein
Crawford	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for SB 310**—A bill to be entitled An act relating to the Florida Retirement System; adding s. 121.0515(8), Florida Statutes, 1982 Supplement; providing for the restoration upon certain conditions of special risk credit to special risk members who were removed from the class effective October, 1978, solely because they did not have the required certificate or temporary waiver of certificate; amending s. 121.052(1)(d), Florida Statutes, 1982 Supplement, adding paragraph (h) to said subsection, and

adding paragraph (h) to subsection (4) of said section; providing for the upgrading of retirement service credit and providing for the transfer to the Elected State Officers' Class by certain elected county officers; providing for the retention of the normal special risk retirement date for elected sheriffs who transfer to the Elected State Officers' Class; providing for contributions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

**Amendment 1**—On page 6, strike all of lines 5-17 after the period (.) on line 5; and on line 22, strike "20.91", and insert: 20.25

**Amendment 2**—On page 2, strike all of lines 20-21 after the comma (,) on line 20, and insert: paragraph (g) of subsection (4) of said section is redesignated as paragraph (h), and a new paragraph (g) is added to said subsection, to read: and, on page 6, line 19, strike "(h)", and insert: (g)

**Amendment 3**—On page 1 in the title, on line 12, strike "paragraph (h)", and insert: a paragraph

and on lines 17-20, strike all after the semicolon (;) on line 17 and before the word "providing" on line 20.

**Amendment 4**—On page 6, line 27, renumber Section 3 as Section 4, and insert a new Section 3, to read:

Section 3. Section 231.495, Florida Statutes, 1982 Supplement, is amended to read:

231.495 Retirement annuities authorized.—School boards are authorized to purchase annuities for all school personnel with 25 or more years of creditable service who have reached age 50 55 and have applied for retirement under the Florida Retirement System. No such annuity shall provide for more than the total difference in retirement income between the retirement benefit based on average monthly compensation and creditable service as of the member's early retirement date and the early retirement benefit that received at the early retirement date and that received at the normal retirement date under the Florida Retirement System. School boards are authorized to invest funds, purchase annuities, or provide local supplemental retirement programs for purposes of providing annuities for school personnel. All retirement annuities shall comply with s. 14, Art. X of the State Constitution.

**Amendment 5**—On page 1 in the title, line 20 after the second semicolon, insert: amending s. 231.495, Florida Statutes, 1982 Supplement; clarifying the restriction on the maximum benefit applicable to retirement annuities purchased for district school personnel and revising the eligibility age for such annuities;

On motions by Senator Grizzle, the Senate concurred in the House amendments.

CS for SB 310 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Malchon	Rehm
Barron	Grizzle	Mann	Stuart
Beard	Henderson	Margolis	Thomas
Carlucci	Hill	Maxwell	Thurman
Castor	Jenne	McPherson	Vogt
Childers, D.	Jennings	Meek	Weinstein
Crawford	Johnston	Myers	
Dunn	Kirkpatrick	Neal	
Fox	Langley	Plummer	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Grant

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments 1, 2, 3, and 4, has amended House Amendments 3 and 4 and requests the Senate to concur, and passed SB 645, as amended.

Allen Morris, Clerk

**SB 645**—A bill to be entitled An act relating to driving; amending ss. 316.1932(1)(a) and (c), and 322.261(1) and (3), Florida Statutes, 1982 Supplement, increasing the periods of license suspension for refusal to take breath, urine, or blood tests; amending s. 322.20(3), Florida Statutes, 1982 Supplement; prohibiting the Department of Highway Safety and Motor Vehicles from releasing certain information contained in a driver history record in certain circumstances; providing an effective date.

**House Amendment 1 to House Amendment 3**—On page 1, line 20, insert the following and renumber the subsequent sections:

Section 1. Subsection (4) of section 316.193, Florida Statutes, 1982 Supplement, is amended to read:

316.193 Driving while under the influence of alcoholic beverages, model glue, or controlled substances or with an unlawful blood alcohol level; penalties.—

(1) It is unlawful and punishable as provided in subsection (2) for:

(a) 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; or

(b) Any person with a blood alcohol level of 0.10 percent or above 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) shall be punished:

(a) By a fine of:

1. Not less than \$250 or more than \$500 for a first conviction.

2. Not less than \$500 or more than \$1,000 for a second conviction.

3. Not less than \$1,000 or more than \$2,500 for a third or subsequent conviction; and

(b) By imprisonment for:

1. Not more than 6 months for a first conviction.

2. Not more than 9 months for a second conviction.

3. Not more than 12 months for a third or subsequent conviction.

For the purposes of this subsection, a previous conviction for violation of s. 316.1931 or former s. 860.01 shall also be considered a previous conviction for violation of this section.

(4) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2):

(a) For the first conviction thereof, the court shall place the defendant on probation for a period not to exceed 1 year, and as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. However, in no event shall the total period of probation and incarceration exceed 1 year.

(b) For the second conviction within a period of 3 years from the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days.

(c) For the third conviction within a period of 5 years from the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days.

For the purposes of this subsection, a previous conviction for violation of s. 316.1931 or former s. 860.01 shall also be considered a previous conviction for violation of this section.

Section 2. For the purpose of incorporating the amendment to section 316.193, Florida Statutes, 1982 Supplement, in a reference thereto, section 316.1931, Florida Statutes, 1982 Supplement, is reenacted to read:

316.1931 Driving automobile while intoxicated; punishment.—

(1) It is unlawful for any person, while in an intoxicated condition or under the influence of alcoholic beverages; model glue, as defined in s. 877.11; or any substance controlled under chapter 893 to such extent as to deprive him of full possession of his normal faculties, to drive, be in actual physical control of, or operate over the highways, streets, or thor-

oughfares of this state any automobile, truck, motorcycle, or other vehicle. Any person convicted of a violation of this section shall be punished as provided in s. 316.193. For the purposes of this subsection, a previous conviction under s. 316.193 shall also be considered a previous conviction for violation of this subsection.

(2) If, however, damage to the property or person of another, other than damage resulting in the death of any person, is done by such intoxicated person under the influence of alcoholic beverages, model glue, or any substance controlled under chapter 893, to such extent as to deprive him of full possession of his normal faculties, by reason of the operation of any of the vehicles mentioned herein, he is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, but the penalty imposed for a violation of this subsection shall be not less than the penalty provided under s. 316.193; and if the death of any human being is caused by the operation of a motor vehicle by any person while so intoxicated, such person shall be deemed guilty of manslaughter and on conviction shall be punished as provided by existing law relating to manslaughter.

(3) A conviction under the provisions of this section shall not be a bar to any civil suit for damages against the person so convicted.

Section 3. Section 948.04, Florida Statutes, is amended to read:

948.04 Period of probation; duty of probationer.—

(1) Defendants found guilty of misdemeanors who are placed on probation shall be under supervision not to exceed 6 months unless otherwise specified by the court. *In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to 1 year.* Defendants found guilty of felonies who are placed on probation shall be under supervision not to exceed 2 years unless otherwise specified by the court. No defendant placed on probation pursuant to subsection 948.01(4) shall be subject to the probation limitations of this subsection.

(2) Upon the termination of the period of probation, the probationer shall be released from probation and shall not be liable to sentence for the offense crime for which probation was allowed. During the period of probation, the probationer shall perform the terms and conditions of his probation. The Department of Corrections may recommend early termination of probation to the court at any time prior to the scheduled termination date.

**House Amendment 2 to House Amendment 3**—On page 4, between lines 6 and 7 insert:

Section 4. Subsection (1) and paragraph (a) of subsection (2) of s. 322.28, Florida Statutes, 1982 Supplement, are amended and subsection (5) is added to said section to read:

322.28 Period of suspension or revocation.—

(1) *Unless otherwise provided by this section,* the department shall not suspend a license for a period of more than 1 year and, upon revoking a license, in any case except in a prosecution for the offense of driving a motor vehicle while under the influence of alcoholic beverages or controlled substances, shall not in any event grant a new license until the expiration of 1 year after such revocation, ~~except as provided herein.~~

(2) In a prosecution for the offense of driving a motor vehicle with an unlawful blood alcohol level or while under the influence of alcoholic beverages or controlled substances to the extent that normal faculties are impaired, as defined in s. 316.193(1), the following provisions shall apply:

(a) Upon conviction of the 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 for a violation of the provisions of s. 316.193 or s. 316.1931, *except a violation of s. 316.1931(2) resulting in death,* the driver's license or driving privilege shall be revoked for not less than 180 days or more than 1 year.

2. Upon a second conviction within a period of 5 years from the date of a prior conviction for a violation of the provisions of s. 316.193 or s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 5 years.

3. Upon a third conviction within a period of 10 years from the date of conviction of the first of three or more convictions for the violation of the provisions of s. 316.193 or s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 10 years.

For the purposes of this paragraph, a conviction for violation of former s. 860.01 shall be considered a conviction for violation of s. 316.1931.

(5)(a) *Upon a conviction for a violation of s. 316.1931(2), a conviction of manslaughter resulting from the operation of a motor vehicle, or a conviction of vehicular homicide, the court shall revoke the driver's license of the person so convicted for a minimum period of 3 years if death to any other person resulted from the operation of a motor vehicle by such driver.*

(b) *If the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter, the department shall revoke the driver's license for the minimum period applicable under paragraph (a), or for subsequent convictions for the minimum period applicable under paragraph (2)(a) or paragraph (2)(f).*

Section 5. Section 322.281, Florida Statutes, 1982 Supplement, is amended to read:

322.281 Mandatory adjudication.—

(1) Notwithstanding the provisions of s. 948.01, no court shall suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.193 or s. 316.1931 *for manslaughter resulting from the operation of a motor vehicle, or for vehicular homicide.*

(2)(a) No trial judge shall accept a plea of guilty to a lesser offense from a person charged under the provisions of this act who has been given a breath or blood test to determine blood alcohol content, the results of which show a blood alcohol content by weight of 0.20 percent or more.

(b) *No trial judge shall accept a plea of guilty to a lesser offense from a person charged with a violation of s. 316.1931(2), manslaughter resulting from the operation of a motor vehicle, or vehicular homicide.*

**House Amendment 3 to House Amendment 3**—On page 1, line 21, before section 1, insert:

Section 1. Paragraphs (a) and (c) of subsection (1) of section 316.1932, Florida Statutes, 1982 Supplement, are amended to read:

316.1932 Tests for impairment or intoxication; implied consent; right to refuse.—

(1)(a) Any person who accepts 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, and to a urine test for the purpose of detecting the presence of controlled substances, if he is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages or controlled substances. The breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of either test shall not preclude the administration of the other test. Such person shall be told that his failure to submit to such a breath test or urine test, or both such tests, will result in the suspension of his privilege to operate a motor vehicle for a period of 6 3 months, for a first refusal, or for a period of 1 year 6 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests. The refusal to submit to a chemical breath or urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding.

(c) Any person whose consent is implied as provided in this section shall be deemed to have consented to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of controlled substances as provided herein if such person is admitted to a hospital, clinic, or other medical facility as a result of his involvement as a driver in a motor vehicle accident and the administration of a breath or urine test is impractical or impossible. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition shall be deemed not to have withdrawn his consent to such test. A blood test may be administered whether or not such person is told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle upon the public highways of this state. Any person who is capable of refusal shall be told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle for a period of 6 3 months, for a first refusal, or for a period of 1 year 6 months if the driving privilege of such person has been suspended previously as a result of a refusal to submit to such a test or tests. The refusal to submit to a blood test upon request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

Section 2. Subsections (1) and (3) of section 322.261, Florida Statutes, 1982 Supplement, are amended to read:

322.261 Suspension of license for refusal to submit to test for impairment or intoxication.—

(1) If any person refuses an officer's request to submit to any breath, urine, or blood test provided in s. 316.1932, the department, upon receipt of the officer's sworn statement that he had reasonable cause to believe such person had been driving or had been in actual physical control of a motor vehicle within this state while under the influence of alcoholic beverages or controlled substances and that the person had refused to submit to such test or tests after being requested by the officer, shall suspend his privilege to operate a motor vehicle for a period of 6 3 months. If the driving privilege of such person has been previously suspended for refusing to submit to such test or tests, the department shall suspend his privilege to operate a motor vehicle for a period of 1 year 6 months. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subsection (2).

(3) Upon his petition in writing, a copy of which he shall forward to the department, being filed within 10 days from the date of receipt of the notice, directed to the court having trial jurisdiction of the offense for which he stands charged, such person shall be afforded an opportunity for a hearing at a time to be set by the court, which hearing date shall be within 20 days of the filing of the petition with the court. It shall be the responsibility of the clerk of the court to schedule the hearing and to give proper notice to the petitioner and to the state attorney. If the person fails to appear for the hearing, the clerk of the court shall immediately notify the department, which shall suspend the person's license for a period of 6 3 months, or a period of 1 year 6 months if the driving privilege of such person has been previously suspended for a refusal to submit to such test or tests. For the purposes of this section, the question of whether such person lawfully refused to take a chemical test or tests, as provided for by this law, and the issues determinative shall be:

(a) Whether the arresting law enforcement officer had reasonable cause to believe that the person had been driving or had been in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages or controlled substances;

(b) Whether the person was placed under lawful arrest;

(c) Whether the person refused to submit to any such test after being requested to do so by a law enforcement officer; and

(d) Whether the person had been told that, if he refused to submit to such test, his privilege to operate a motor vehicle would be suspended for a period of 6 3 months, or for a period of 1 year 6 months if his driving privilege had been previously suspended for a refusal to submit to such test.

(5) If the court determines upon the hearing that the suspension herein provided is according to law and should be sustained, the person's driving privilege shall forthwith be suspended by order of the court, and his license shall forthwith be delivered to the court and forwarded to the department. *However, the court may, in its sound discretion, direct the department to issue a temporary driver's permit which shall be restricted to business or employment purposes and which shall not be used for pleasure, recreational, or nonessential driving.*

Renumber the subsequent sections.

**House Amendment 1 to House Amendment 4**—On page 1, line 2, strike the entire line and insert: amending s. 316.193(4), Florida Statutes, 1982 Supplement; providing that for a first conviction of driving while under the influence of alcohol, model glue, or controlled substances or with an unlawful blood alcohol level, regardless of other penalties, the defendant shall be placed on probation for up to 1 year and that community service shall be a condition of such probation; reenacting s. 316.1931, Florida Statutes, 1982 Supplement, to incorporate the amendment to s. 316.193 in reference thereto; amending s. 948.04, Florida Statutes; increasing the maximum probation period for certain offenses in which alcohol is a significant factor; adding

**House Amendment 2 to House Amendment 4**—On page 1, in the title, line 16 after the semicolon insert: amending s. 322.28(1) and (2)(a), Florida Statutes, 1982 Supplement, and adding subsection (5) thereto; revising provisions relating to the period of revocation of a license upon conviction of specified violations; amending s. 322.281, Florida Statutes, 1982 Supplement, relating to mandatory adjudication for specified manslaughter and homicide offenses;

**House Amendment 3 to House Amendment 4**—On page 1, in title, line 12, after the semicolon “;” insert: amending ss. 316.1932(1)(a) and (c), and 322.261(1), (3), and (5), Florida Statutes, 1982 Supplement, increasing the periods of license suspension for refusal to take breath, urine, or blood tests; providing for temporary drivers' permits; amending s. 322.20(3), Florida Statutes, 1982 Supplement; prohibiting the Department of Highway Safety and Motor Vehicles from releasing certain information contained in a driver history record in certain circumstances;

On motions by Senator Langley, the Senate concurred in the House amendments.

SB 645 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Johnston	Myers
Barron	Frank	Kirkpatrick	Neal
Beard	Girardeau	Langley	Plummer
Carlucci	Grant	Malchon	Scott
Castor	Grizzle	Mann	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Henderson	Maxwell	Thurman
Crawford	Hill	McPherson	Vogt
Dunn	Jennings	Meek	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for SB 56**—A bill to be entitled An act relating to a surtax on documents; creating s. 125.0167, Florida Statutes; authorizing certain charter counties to levy a discretionary surtax on certain documents to provide to certain families financial assistance to buy or rehabilitate homes or apartments; providing limitations and procedures; providing for future repeal of said section; creating s. 201.031, Florida Statutes; providing for the levy of the surtax; providing for the administration, collection, and distribution of the proceeds of the surtax; providing an exception; requiring an annual report to the Department of Banking and Finance; providing effective and expiration dates.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 4, lines 5 and 7, strike “July 1,” and insert: October 1,

**Amendment 2**—On page 2, lines 10 and 11, strike “the excise tax on documents under chapter 201” and insert: forty-five cents for each \$100 or fractional part thereof of the consideration therefor

On motions by Senator Meek, the Senate concurred in the House amendments.

CS for SB 56 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Johnston	Neal
Beard	Gordon	Kirkpatrick	Plummer
Carlucci	Grant	Langley	Rehm
Castor	Grizzle	Malchon	Stuart
Childers, D.	Hair	Mann	Thomas
Childers, W. D.	Henderson	Maxwell	Thurman
Crawford	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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 CS for SB 201 and requests the Senate to recede.

*Allen Morris, Clerk*

**CS for SB 201**—A bill to be entitled An act relating to burial insurance; amending s. 639.07, Florida Statutes; providing definitions; amending s. 639.08, Florida Statutes; providing clarifying language; amending s. 639.09, Florida Statutes; requiring a certificate of authority; amending s. 639.10, Florida Statutes; providing for expiration and renewal of certificates of authority; providing for an annual statement; providing evidence of financial solvency; requiring certain disclosures; creating s. 639.105, Florida Statutes; providing for the approval of forms; amending s. 639.11, Florida Statutes; providing for disposition of funds received on preneed contracts; amending s. 639.13, Florida Statutes, 1982 Supplement; providing for the cancellation of preneed contracts and certain liquidated damages; amending ss. 639.14, 639.15, Florida Statutes; providing conforming language; amending s. 639.16, Florida Statutes; providing grounds for suspension and revocation of certificates of authority; providing for notice, effect, and publication of suspension order; providing for duration of suspension and for reinstatement; creating s. 639.165, Florida Statutes; providing for dissolutions and liquidations; creating s. 639.166, Florida Statutes; providing for administrative fine in lieu of suspension or revocation of certificate of authority; amending ss. 639.17, 639.20, 639.21, Florida Statutes; providing clarifying language; creating s. 639.185, Florida Statutes; providing for the registration of preneed agents with the Department of Insurance; amending s. 470.028, Florida Statutes, 1982 Supplement; deleting the requirement that preneed agents be registered with the Department of Professional Regulation; amending s. 470.002(4), Florida Statutes, 1982 Supplement; and amending ss. 470.019(2)(f), 470.036(1)(q), Florida Statutes; conforming language; creating ss. 639.22, 639.23, Florida Statutes; prohibiting and defining certain unfair methods of competition and unfair or deceptive practices; creating s. 639.24, Florida Statutes; empowering the department to conduct certain examinations and investigations; creating s. 639.25, Florida Statutes; authorizing the department to conduct certain hearings in accordance with chapter 120, Florida Statutes; creating s. 639.26, Florida Statutes; requiring the department to issue cease and desist orders under certain circumstances; providing for an administrative penalty; creating s. 639.27, Florida Statutes; providing for appeal; creating s. 639.28, Florida Statutes; providing a penalty for violation of cease and desist orders; creating s. 639.29, Florida Statutes; providing for injunctions; creating s. 639.30, Florida Statutes; providing for civil liability; reviving and readopting chapter 639, Florida Statutes, as amended, notwithstanding the Regulatory Sunset Act; repealing s. 639.06, Florida Statutes, relating to declaration of policy; repealing s. 639.18, Florida Statutes, relating to false, fraudulent, and deceptive advertising and selling practices; repealing s. 639.19, Florida Statutes, relating to legislative intent; providing for legislative review; providing an effective date.

On motions by Senator Thomas, the Senate again refused to recede from the Senate amendments to the House amendments and insisted that the House concur. The action of the Senate was certified to the House.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 3; has amended Senate Amendment 2, concurred in same as amended and passed HB 1103, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**HB 1103**—A bill to be entitled An act relating to workers' compensation; amending s. 440.13(3)(a) and (b), Florida Statutes, 1982 Supplement, providing that the maximum fee schedule for medical treatment shall have statewide applicability and be uniform throughout the state; providing standards for adoption of the schedule; providing for the membership of the panel appointed to determine fee schedules for medical treatment; providing staff support for the panel; providing an effective date.

**House Amendment 1 to Senate Amendment 2**—On page 1, lines e, f & g, strike all of said lines and insert: *and information necessary to provide staff support.*

On motion by Senator Jennings, the Senate concurred in the House amendment to Senate Amendment 2.

HB 1103 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Grant	Langley	Rehm
Beard	Grizzle	Malchon	Stuart
Castor	Hair	Mann	Thomas
Childers, D.	Henderson	Margolis	Thurman
Crawford	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	
Girardeau	Johnston	Neal	
Gordon	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—W. D. Childers

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended and passed HB 520, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**HB 520**—A bill to be entitled An act relating to public food service establishments; creating s. 509.213, Florida Statutes, requiring such establishments to post a sign informing employees how to administer emergency first aid to choking victims; requiring such establishments to familiarize their employees with such first aid procedures; providing exemption from liability; providing for review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

**House Amendment 1 to Senate Amendment 1**—On page 1, line 11, insert:

Section 2. Subsection (4) of section 509.013, Florida Statutes, is amended to read:

509.013 Definitions.—As used in this chapter:

(4)(a) "Public lodging establishment" means any building or structure, or group of buildings or structures within a single complex of buildings, which is kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants.

(b) The following are excluded from the definition in paragraph (a):

1. Any individually or collectively owned one-family, two-family, or three-family, or four-family dwelling house or dwelling unit, regardless of the number of such dwelling houses or units clustered together, unless they are regularly rented to transients or held out or advertised to the public as places regularly rented to transients;
2. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university primarily for the use of students, faculty, or visitors;
3. Any hospital, nursing home, sanitarium, adult congregate living facility, or other similar place; and

4. Any place renting three rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

(Renumber subsequent sections.)

**House Amendment 1 to Senate Amendment 2**—On page 1, in the title, line 11 after the (;) insert: amending s. 509.013(4), Florida Statutes, redefining the term “public lodging establishment” to exclude any individually or collectively owned four-family dwelling house or dwelling unit;

On motions by Senator Henderson, the Senate concurred in the House Amendments to the Senate Amendments.

HB 520 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—26

Mr. President	Grant	Mann	Stuart
Barron	Henderson	Margolis	Thomas
Beard	Hill	Maxwell	Thurman
Childers, W. D.	Jenne	McPherson	Vogt
Crawford	Jennings	Myers	Weinstein
Fox	Kirkpatrick	Plummer	
Frank	Langley	Rehm	

Nays—None

Vote after roll call:

Yea—Gordon

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1, 2, 3, 4, 5, and 6 to HB 609 and requests the Senate to recede.

*Allen Morris, Clerk*

**HB 609**—A bill to be entitled An act relating to municipalities; amending s. 166.041(3)(c), Florida Statutes, providing for the applicability of procedures for the enactment of municipal rezoning ordinances to ordinances substantially changing permitted use categories in zoning districts; providing an effective date.

On motions by Senator Hill, the Senate receded from Amendments 1, 2, 3, 4, 5 and 6.

HB 609 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Jennings	Neal
Beard	Girardeau	Johnston	Plummer
Carlucci	Gordon	Kirkpatrick	Rehm
Castor	Grant	Langley	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W. D.	Hair	Maxwell	Thomas
Crawford	Henderson	McPherson	Thurman
Dunn	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 2; has amended Senate Amendment 1, concurred in same as amended and passed HB 359, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**HB 359**—A bill to be entitled An act relating to land and water management; amending s. 380.04(1), Florida Statutes; providing a technical change to the definition of “development”; providing an effective date.

**House Amendment 1 to Senate Amendment 1**—On page 15, lines 4-9, strike all of said lines and insert:

(24) Any proposed addition to an existing sports facility complex shall be exempt from the provisions of this section if the addition would meet the following characteristics:

(a) it would not operate concurrent with the scheduled hours of operation of the existing facility;

(b) its seating capacity would be no more than 75% of the existing facility; and

(c) the sports facility complex property is owned by a public body prior to the effective date of this act.

**House Amendment 2 to Senate Amendment 1**—On page 15, between lines 9 and 10 add new Section D: This exemption shall not apply to any pari-mutuel facility.

On motions by Senator Neal, the Senate concurred in the House amendments to Senate Amendment 1.

HB 359 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Jennings	Neal
Barron	Girardeau	Johnston	Plummer
Beard	Gordon	Kirkpatrick	Stuart
Carlucci	Grant	Langley	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Fox	Jenne	Myers	

Nays—2

Malchon                      Rehm

Vote after roll call:

Yea—W. D. Childers, Hair

*The Honorable Curtis Peterson, President*

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

**CS for CS for SB's 6, 18 and 287**—A bill to be entitled An act relating to mobile homes; creating ss. 83.7710, 83.7720, and 83.7730, Florida Statutes; providing for mobile home owners' associations and providing association powers; providing for maintenance of records and for inspection thereof; providing for association bylaws; providing for a governing board and providing its powers and duties; requiring mobile home park owners to notify the association of intent to sell, under certain circumstances; providing exceptions; requiring such associations to record certain documents under specified circumstances; creating a Mobile Home Study Commission and specifying its membership and duties; providing an exception to application of the act under certain circumstances; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 1, line 22, strike everything after the enacting clause and insert:

Section 1. Section 83.7710, Florida Statutes, is created to read:

83.7710 Homeowners' associations.—In order to exercise the rights provided in s. 83.7730, the mobile home owners shall form an association in compliance with this section and s. 83.7720, which shall be a corporation for profit or a corporation not for profit, and in which written consent to be shareholders or members has been given in writing by owners of at least two-thirds of the mobile homes. The association shall have no members or shareholders who are not bona fide residents of the mobile home park. The articles of incorporation of such homeowner's association shall provide for the following:

(1) The articles of incorporation shall provide that the association has the power to negotiate for, acquire, and operate the mobile home park on behalf of the residents. The articles of incorporation shall further provide for the conversion of the mobile home park once acquired to a condominium or to a cooperative form of ownership. Upon acquisition of the prop-

erty, in the case of conversion to condominium, the association shall be the entity which creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, or, in the case of conversion to cooperative, the entity that owns the record interest in the property and that is responsible for the operation of property.

(2) The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes the powers of the association include, but are not limited to, the maintenance, management, and operation of the park property. The association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all owners concerning matters of common interest, including, but not limited to, the common property; structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving the park property; and protests of ad valorem taxes on commonly used facilities. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common law right of any individual owner or class of owners to bring any action which may otherwise be available.

(3) The powers and duties of the association include those set forth in this section and those set forth in the articles of incorporation and bylaws, and any recorded declarations or restrictions encumbering the park property, if not inconsistent with this chapter.

(4) The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common areas.

(5) The association shall maintain accounting records in the county where the property is located, according to good accounting practices. The records shall be open to inspection by association members or their authorized representatives at reasonable times, and written summaries of such records shall be supplied at least annually to such members or their authorized representatives. Failure of the association to permit inspection of the association's accounting records by members or their authorized representatives entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the books and records who, directly or indirectly, knowingly denies access to the books and records for inspection. The records shall include, but shall not be limited to:

(a) A record of all receipts and expenditures.

(b) An account for each member, designating the name and current mailing address of the member, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid upon the account, and the balance due.

(6) The association has the power to purchase lots in the park and to acquire and hold, lease, mortgage, and convey them.

(7) The association shall use its best efforts to obtain and maintain adequate insurance to protect the association and the park property. A copy of each policy of insurance in effect shall be made available for inspection by owners at reasonable times.

(8) The association has the authority, without the joinder of any unit owners, to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the park property. This subsection does not authorize the association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the members, or crossing the property of anyone other than the members, without their consent or approval as required by law or the instrument creating the easement. Nothing in this subsection affects the rights of ingress or egress of any member of the association.

Section 2. Section 83.7720, Florida Statutes, is created to read:

83.7720 Bylaws of the homeowners' association.—In order to exercise the rights provided in s. 83.7730, the bylaws of the mobile home association shall provide for the following:

(1) The administration of the association and the operation shall be governed by the bylaws.

(2) The bylaws shall provide for the following, and if they do not, shall be deemed to include the following provisions:

(a) The form of administration of the association shall be described, providing for the titles of the officers and for a board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and board members. Unless otherwise provided in the bylaws, the board of administration shall be composed of five members. The board of administration shall have a president, secretary, and treasurer, who shall perform the duties of those offices customarily performed by officers of corporations, and these officers shall serve without compensation and at the pleasure of the board of administration. The board of administration may appoint and designate other officers and grant them those duties it deems appropriate.

(b) A majority of the members shall constitute a quorum. Decisions shall be made by a majority of members represented at a meeting at which a quorum is present. In addition, provision shall be made in the bylaws for definition and use of proxy. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

(c) Meetings of the board of administration shall be open to all members, and notice of meetings shall be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) Members shall meet at least once each calendar year, and the meeting shall be the annual meeting. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. The bylaws shall not restrict any member desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method for calling the members to meetings, including annual meetings. The method shall provide at least 14 days' written notice to each member in advance of the meeting and require the posting in a conspicuous place on the park property of a notice of the meeting at least 14 days prior to the meeting. Unless a member waives in writing the right to receive notice of the annual meeting by certified mail, the notice of the annual meeting shall be sent by certified mail to each member, and the mailing constitutes notice. These meeting requirements do not prevent members from waiving notice of meetings or from acting by written agreement without meetings, if allowed by the bylaws.

(e) Minutes of all meetings of members and of the board of administration shall be kept in a businesslike manner and shall be available for inspection by members, or their authorized representatives, and board members at reasonable times. The association shall retain these minutes for a period of not less than 7 years.

(f) The share or percentage of, and manner of sharing, expenses for each member shall be stated.

(g) The board of administration shall mail a meeting notice and copies of the proposed annual budget of expenses to the members not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws provide that the budget may be adopted by the board of administration, the members shall be given written notice of the time and place at which the meeting of the board of administration to consider the budget will be held. The meeting shall be open to the members.

(h) The board of administration may, in any event, propose a budget to the members at a meeting of members, or by writing, and if the budget or proposed budget is approved by the members at the meeting or by a majority of their whole number in writing, that budget shall not thereafter be examined by the members.

(i) The manner of collecting from the members their shares of the expenses for maintenance of the park property shall be stated. Assessments shall be made against members not less frequently than quarterly, in amounts no less than are required to provide funds in advance for payments of all of the anticipated current operating expenses, and for all of the unpaid operating expense previously incurred.

(j) The method by which the bylaws may be amended consistent with the provisions of this part shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by not less than two-thirds of the members. No bylaw shall be revised or amended by reference to its title or number only.

(k) The officers and directors of the association have a fiduciary relationship to the members.

(l) Any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all members. A special meeting of the members to recall a member or members of the board of administration may be called by 10 percent of the members giving notice of the meeting as required for a meeting of members, and the notice shall state the purpose of the meeting.

(3) The bylaws may provide the following:

(a) A method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the park property.

(b) Restrictions on, and requirements respecting, the use and maintenance of mobile homes located within the park, and the use of the park property, not inconsistent with the articles of incorporation.

(c) Other provisions not inconsistent with this chapter or with other documents governing the park property or mobile homes located therein.

(4) No amendment may change the proportion or percentage by which members share in the expenses unless all the members approve the amendment.

Section 3. Section 83.7730, Florida Statutes, is created to read:

83.7730 Sale of mobile home parks.—

(1) If a mobile home park owner offers a mobile home park for sale, he shall notify the tenants of the mobile home park of his offer, stating the price and the terms and conditions of sale. The tenants by and through the association defined in s. 83.7710 shall have the right to purchase the park, provided that the tenants shall meet the price and terms and conditions of the mobile home park owner by executing a contract with the owner within 45 days, unless agreed to otherwise, from the date of mailing of the notice, and provided they have complied with ss. 83.7710 and 83.7720. If a contract between the owner and the association is not executed within such 45-day period, then, unless the owner shall thereafter elect to offer the park at a price lower than the price specified in the owner's notice to the tenants, the owner shall have no further obligations under this subsection, and the only obligation of the owner shall be as set forth in subsection (2). If the owner shall thereafter elect to offer the park at a price lower than the price specified in the owner's notice to the tenants, the tenants by and through the association shall have an additional 10 days to meet the price and terms and conditions of the owner by executing a contract. As used in this subsection, the term "offer" means any solicitation by the owner to the general public.

(2) If a mobile home park owner receives a bona fide offer to purchase the park that he intends to consider or make a counter offer to, his only obligation shall be to notify the tenants that he has received an offer and disclose the price and material terms and conditions upon which he would consider selling the park and consider any offer made by the tenants, provided the tenants shall have complied with ss. 83.7710 and 83.7720. The park owner shall be under no obligation to sell to the tenants or to interrupt or delay other negotiations, and the park owner shall be free at any time to execute a contract for the sale of the park to a party or parties other than the tenants or the association.

(3) As used in subsections (1) and (2), "notify" means the placing of a notice in the U.S. mail addressed to the tenant's last known mailing address in the mobile home park. Each such notice shall be deemed to have been given upon the deposit thereof in the U.S. mail.

(4) A park owner may, at any time, record in the official records of the county where a mobile home park is situated an affidavit in which the park owner shall certify:

(a) That, with reference to an offer by the owner for the sale of such park, the owner has complied with the provisions of subsection (1) hereof;

(b) That, with reference to an offer received by the owner for the purchase of a park, or with reference to a counter offer which the owner intends to make, or has made, for the sale of such park, the owner has complied with the provisions of subsection (2) hereof;

(c) That, notwithstanding the owner's compliance with the provisions of either subsection (1) or subsection (2) hereof, no contract has been executed for the sale of such park between the owner and the association;

(d) That the provisions of subsections (1) and (2) are inapplicable to a particular sale or transfer of such park by the owner, and compliance with such subsections is not required; or

(e) That a particular sale or transfer of such park is exempted from the provisions of this section.

Any party acquiring an interest in a mobile home park, and any and all title insurance companies and attorneys preparing, furnishing or examining any evidence of title, shall have the absolute right to rely on the truth and accuracy of all statements appearing in such affidavit, and shall be under no obligation to inquire further as to any matter or fact relating to the owner's compliance with the provisions of this section. It is the purpose and intention of this subsection (4) to preserve the marketability of title to mobile home parks, and, accordingly, the provisions hereof shall be liberally construed in order that purchasers and encumbrances may rely on the record title to mobile home parks.

(5) This section shall not apply to any of the following sales or transfers:

(a) Any sale or transfer to a person included within the table of descent and distribution were the park owner to die intestate;

(b) Any transfer by gift, devise or operation of law;

(c) Any sale or transfer by a corporation to an "affiliate" (for this purpose, an "affiliate" shall mean any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the transferring corporation);

(d) Any sale or transfer by a partnership to any of its partners;

(e) Any conveyance of an interest in a mobile home park incidental to the financing of such mobile home park;

(f) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other instrument encumbering a mobile home park, or any deed given in lieu of such foreclosure;

(g) Any sale or transfer between or among joint tenants or tenants-in-common owning a mobile home park; or

(h) Any exchange of a mobile home park for other real property, whether or not such exchange shall also involve the payment of cash or other boot.

(6) This section shall not apply to the purchase of a mobile home park by a governmental entity having the powers of eminent domain.

(7) In the event that the association acquires the mobile home park and intends to reconvey a portion or portions of the property acquired to members of the association, the association shall record copies of its articles, bylaws, and any additional covenants, restrictions, or declarations of servitude affecting the property with the clerk of the circuit court prior to the conveyance of any portion of the property to an individual member of the association.

Section 4. Mobile Home Study Commission.—

(1) There shall be established on July 1, 1983, a Mobile Home Study Commission to consist of nine members, as follows:

(a) The President of the Senate shall appoint two members from the Senate.

(b) The Speaker of the House shall appoint two members from the House of Representatives.

(c) The Attorney General or his designee.

(d) The Governor shall appoint four members, two of whom shall represent mobile home park owners or the manufactured housing industry of Florida and two of whom shall be owners of mobile homes located on rented land.

The presiding officers of the Legislature shall be guided in their appointments by consideration of the legislator's expertise, interest, and experience.

(2) Not more than 30 days after the appointment of the commission, the members shall meet to select a chairman from among its members

and shall establish procedures for the conduct of the commission's business. The commission shall meet not less than once a month, and other meetings may be called when necessary by the chairman at any time.

(3) It shall be the duty of the commission to submit a final report to the President of the Senate and the Speaker of the House of Representatives on March 1, 1984, which report shall include the findings and recommendations of the commission.

(4) The objectives of the commission shall be to study the mobile home park industry in Florida and determine whether additional legislation is necessary in regard thereto. The areas of inquiry available to the commission shall include, but not be limited to, the following:

- (a) The acquisition of mobile home parks by the tenants thereof.
  - (b) Rent increases.
  - (c) The displacement of mobile home park residents upon the sale of mobile home parks.
  - (d) Zoning for mobile home parks and the scattered site placement of mobile homes.
  - (e) The upgrading of mobile home parks.
  - (f) The relationship of mobile home housing to part II of chapter 501.
  - (g) The adequacy of part III of chapter 83.
  - (h) Advertising and the leasing of mobile home lots or spaces.
- (5) The commission shall be entitled to have such staff and administrative support as the commission shall deem necessary. In addition, to enable the commission to accomplish its studies, all state agencies are hereby authorized to cooperate to the fullest extent possible in assisting the commission.

(6) Before making final recommendations as provided in subsection (3), the commission shall hold at least four public hearings in the state for public input concerning study recommendations.

(7) Commission members shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061, Florida Statutes. The commission shall expire on April 1, 1984.

Section 5. Section 3 shall not apply to the sale of a mobile home park when the owner and purchaser have entered into a contract for such sale prior to the effective date hereof, or have been involved in good faith negotiation prior to the effective date hereof.

Section 6. This act shall take effect upon becoming a law.

**Amendment 2**—In title, on page 1, line 1, strike the entire title and insert: A bill to be entitled An act relating to mobile homes; creating ss. 83.7710, 83.7720, and 83.7730, Florida Statutes; providing for mobile home owners' associations and providing for articles of incorporation; providing for maintenance of records and for inspection thereof; providing for association bylaws; providing for a governing board and providing its powers and duties; requiring mobile home park owners to notify the association of intent to sell, under certain circumstances; providing exceptions; requiring such associations to record certain documents under specified circumstances; creating a Mobile Home Study Commission and specifying its membership and duties; providing an exception to application of the act under certain circumstances; providing an effective date.

On motions by Senator Langley, the Senate concurred in the House amendments.

CS for CS for SB's 6, 18 and 287 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Johnston	Myers
Barron	Frank	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Rehm
Carlucci	Grant	Malchon	Scott
Castor	Grizzle	Mann	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Henderson	Maxwell	Thurman
Crawford	Jenne	McPherson	Vogt
Dunn	Jennings	Meek	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**SB 603**—A bill to be entitled An act relating to public officers and employees; amending s. 112.08(1), Florida Statutes; authorizing local governmental units to provide legal expense insurance for officers and employees and their dependents; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 1, line 9, after the colon “:” insert: Section 1. Present paragraphs (d) and (e) of subsection (3) of section 110.123, Florida Statutes, are redesignated as paragraphs (e) and (f) respectively and a new paragraph (d) is added to said subsection to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(d) A participant in a state group health insurance plan who discovers that he was overcharged by a health care provider shall receive a refund of 50 percent of any amount recovered as a result of such overcharge, up to a maximum of \$1,000 per admission.

(Renumber the subsequent sections.)

**Amendment 2**—On page 1, in the title, line 3, after the semicolon “;” insert: redesignating s. 110.123(3)(d), (e), Florida Statutes, and adding a new paragraph (d) to said subsection; providing for a percentage refund of moneys recovered from health care provider overcharges;

**Amendment 3**—On page 1, line 9, after the colon insert:

Section 1. Subsection (2) of section 231.471, Florida Statutes, 1982 Supplement, is amended to read:

231.471 Part-time teachers.—

(2) Assigned additional school duties, and salaries, and benefits shall be given in direct ratio to the number of periods taught. Other benefits shall be provided by school board rule or, if applicable, pursuant to chapter 447.

(Renumber subsequent sections.)

**Amendment 4**—On page 1, in the title, line 3, after the semicolon, insert: amending s. 231.471(2), Florida Statutes, 1982 Supplement, providing a method for determining benefits for part-time teachers for special subjects;

**Amendment 5**—On page 2, line 7, after the period, insert: Every local governmental unit is hereby authorized to expend funds for pre-employment and postemployment physical examinations.

**Amendment 6**—On page 2, line 8, insert new Section 2: A participant in a group insurance plan offered by a county, municipality, school board, local governmental unit, and special taxing unit, who discovers that he was overcharged by a hospital, physician, clinical lab, and other health-care providers, shall receive a refund of 50 percent of any amount recovered as a result of such overcharge, up to a maximum of \$1,000 per admission. All such instances of overcharge shall be reported to the Hospital Cost Containment Board for action it deem appropriate.

(Renumber subsequent sections.)

**Amendment 7**—On page 1, in the title, line 3, after the semicolon “;” insert: providing that participants in group insurance plans who are overcharged shall receive a refund; providing for reports to the Hospital Cost Containment Board:

Senator Hill moved the following amendment which failed:

**Amendment 1 to House Amendment 1**—On page 1, insert a new Section 2:

Section 2. Paragraphs (b) and (c) of subsection (3) and paragraphs (c) and (f) of subsection (4) of section 110.123, Florida Statutes, are amended, and subsection (8) is added to said section to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(b) The percentage of state contribution toward the cost of any plan in the state group insurance program shall be uniform with respect to all state employees in state collective bargaining units participating in the program or any similar plan. Nothing contained within this section shall prohibit the development of separate benefit plans for officers and employees exempt from collective bargaining or the development of separate benefit plans for each collective bargaining unit.

(c) *Except as provided in subsection (8)*, participation by individuals in the program shall be available to all state officers, full-time state employees, and part-time state employees, and such participation in the program or any plan thereof shall be voluntary. Participation in the program shall also be available to retired state officers and employees who elect at the time of retirement to continue coverage under the program, but they may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under the state group health insurance program.

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE.—

(c) *Except as provided in subsection (8)*, during each policy or budget year, no state agency shall contribute a greater percentage of the premium cost for its officers or employees for any type of coverage under the state group insurance program than any other agency, nor shall any greater percentage contribution of premium cost be made for employees in one state collective bargaining unit than for those in any other state collective bargaining unit.

(f) Pursuant to the request of each state officer, full-time or part-time state employee, or retiree participating in the state group insurance program, and pursuant to the request of each employee participating in a health care plan authorized in subsection (8), and upon certification of the employing agency approved by the Secretary of Administration, the Comptroller shall deduct from the salary or retirement warrant payable to each participant the amount so certified and shall handle such deductions in accordance with rules established by the Secretary of Administration.

(8) *SPECIAL PROVISIONS RELATING TO MEMBERS OF THE STATE LAW ENFORCEMENT AND LAW ENFORCEMENT SUPERVISORS COLLECTIVE BARGAINING UNITS.—The members of the state law enforcement unit and the state law enforcement supervisors unit may, in accordance with the procedures and subject to the limitations specified herein, elect to participate on a bargaining unit wide basis in a health care plan sponsored by the bargaining unit's certified collective bargaining representative in lieu of participation in the state group health insurance plan.*

(a) *If, pursuant to an election conducted among all of the members of each unit, a majority of the employees in a unit elect to participate in a health care plan sponsored by the certified collective bargaining representative, each employee in that unit who actually participates in such plan shall be eligible for a state contribution toward his participation in such health care plan, and all employees in the unit shall be ineligible to participate or continue participation in the state group health insurance plan. Such election shall be by written secret ballot, and shall be conducted jointly by the Department of Administration and the certified collective bargaining representative. Each ballot shall clearly indicate that if a majority of the employees in the unit select the certified collective bargaining representative sponsored health care plan, then all employees in the unit shall be ineligible to participate in the state group health insurance plan. The elections for each unit shall be conducted separately, and the results of the elections shall be independent of each other.*

(b) *Upon the election by a unit to participate in a certified collective bargaining representative sponsored health care plan, all employees and future employees in the unit, including their spouses and dependents, shall be eligible to participate in the certified collective bargaining representative sponsored health care plan and shall be ineligible to participate in the state group health insurance plan. Actual participation in the certified collective bargaining representative sponsored health care plan shall be optional as to each employee, and eligibility to participate in the certified collective bargaining representative sponsored health care plan shall not be contingent upon the employee's membership in, or payment of dues to, the certified collective bargaining representative.*

(c) *The state shall contribute toward individual and dependent coverage the same dollar amount for each member choosing to participate in a certified collective bargaining representative sponsored health care plan as is contributed toward payment of the respective premium costs for individual and dependent coverage under the state group health insurance plan for other career service employees. No costs related to such plan in excess of the state premium contribution on behalf of participating employees shall be borne by the state. The state shall contribute on a pro rata basis for any part-time permanent unit employee who chooses to participate in the health care plan. Such contribution shall bear that relation to the cost contributed for a full-time unit employee that the part-time employee's normal work schedule bears to a full-time unit employee's normal work schedule. No state contribution shall be made for coverage under such plan for retirees or, except as may be provided by law, for surviving spouses and dependents.*

(d) *If an employee eligible for coverage under a certified collective bargaining representative sponsored health care plan has a spouse who is employed by the state, and if both the employee and the spouse are participating in the state group health insurance plan under family coverage, both the employee and the spouse shall be ineligible for coverage under the state group health insurance plan. However, if the employee chooses family coverage including the spouse under the certified collective bargaining representative sponsored health care plan, the state contribution which would have been made for the employee's and the spouse's coverage under the state group health insurance plan shall be made to the certified collective bargaining representative sponsored health care plan.*

(e) *Should an employee who is a member of a unit cease to be employed in a class within the unit, the state contribution toward that employee's participation in a certified collective bargaining representative sponsored health care plan for that unit shall terminate, and such employee, and the employee's spouse if employed by the state and covered under such plan, shall be eligible to participate in the state group health insurance plan if otherwise eligible under this section and the rules adopted by the department.*

(f) *Should for any reason a health care plan sponsored for a unit by the certified collective bargaining representative cease to operate, the state contribution toward the payment of premium costs for coverage under such plan shall terminate, and all employees in the unit, and their spouses if employed by the state and covered under such plan, shall be eligible to participate in the state group health insurance plan if otherwise eligible under this section and the rules adopted by the department.*

(g) *Should for any reason the representation of a unit by a certified collective bargaining representative cease, the state contribution toward the payment of premium costs for coverage under a health care plan sponsored for that unit by the certified collective bargaining representative shall terminate, and all employees in the unit, and their spouses if employed by the state and covered under such plan, shall be eligible to participate in the state group health insurance plan if otherwise eligible under this section and the rules adopted by the department, unless such unit employees elect as provided herein to participate in a health care plan sponsored by a successor certified collective bargaining representative.*

Section 3. Sections 1 and 2 shall take effect July 1, 1983.

(Renumber subsequent sections.)

Senator Hill moved the following amendment which failed:

**Amendment 1 to House Amendment 2**—On page 1, after the semicolon (;) following "overcharges" insert: amending s. 110.123(3)(b) and (c), and (4)(c) and (f), Florida Statutes, and adding a subsection (8); authorizing members of the state law enforcement unit and the state law enforcement supervisors unit to elect to participate in a health care plan sponsored by the certified collective bargaining representative in lieu of participation in the state group health insurance plan; providing that upon election of such participation by a majority of the employees in a unit, all employees in the unit shall be ineligible to participate in the state group health insurance plan; providing procedures for such election; providing for a state contribution toward coverage under such unit health care plan; providing coverage for spouses and dependents of unit members; providing for the termination of coverage upon transfer of an employee out of the unit, cessation of operation of a unit plan, or termination of representation by the certified collective bargaining representative; providing an effective date.

On motions by Senator Hill, the Senate concurred in the House amendments.

SB 603 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Dunn	Jennings	Neal
Barron	Fox	Johnston	Plummer
Beard	Frank	Langley	Rehm
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, D.	Henderson	Maxwell	Thurman
Childers, W. D.	Hill	Meek	Vogt
Crawford	Jenne	Myers	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives requests the return of HB 1026.

*Allen Morris, Clerk*

On motions by Senator Gordon, by two-thirds vote HB 1026 was withdrawn from the Committee on Commerce and returned to the House as requested. The vote was:

Yeas—33

Mr. President	Gersten	Malchon	Rehm
Beard	Gordon	Mann	Stuart
Carlucci	Grizzle	Margolis	Thomas
Castor	Henderson	Maxwell	Thurman
Childers, D.	Jenne	McPherson	Vogt
Crawford	Jennings	Meek	Weinstein
Dunn	Johnston	Myers	
Fox	Kirkpatrick	Neal	
Frank	Langley	Plummer	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Girardeau, Grant, Hair

*The Honorable Curtis Peterson, President*

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

**CS for SB 435**—A bill to be entitled An act relating to veterans; creating the Florida Vietnam Veterans' Memorial Act; providing for the construction of a memorial monument within the Florida Capitol Center Planning District; providing for the study and recommendations as to the design of such monument and its location; providing for a report; providing for a dedication ceremony to be coordinated by the Governor; creating the Florida Vietnam Veterans' Memorial Trust Fund; providing for the funding of an academic chair to study world peace and national security; providing an appropriation; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 2, line 14, strike all after the enacting clause and insert:

Section 1. This act may be cited as the Florida Vietnam Veterans' Memorial Act.

Section 2. There shall be constructed during fiscal year 1984-1985 an appropriate memorial monument to the residents of the State of Florida who served on active duty in the armed services of the United States during the Vietnam Conflict. The memorial shall be located within the Florida Capitol Center Planning District described in section 272.12, Florida Statutes, and shall contain the names of all Florida residents who died or are still missing as a result of military service in the Armed Forces in the Vietnam theater of operations during the Vietnam Conflict. The memorial shall also contain the opening and closing dates of the Vietnam Conflict, and such other inscriptions and features as may be recommended by the Commission on Veterans' Affairs.

Section 3. The Commission on Veterans' Affairs shall consider the appropriate design of the memorial monument and may solicit design proposals from members of the public. The Commission on Veterans' Affairs, in cooperation with the Capitol Center Planning Commission, shall consider the location of the memorial monument within the Florida Capitol Center Planning District. On or before January 31, 1984, the Commission on Veterans' Affairs shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate its recommendations for the location and design of the memorial monument. The report shall include an estimate of the cost to acquire the site for the monument and of the cost to construct the monument in accordance with the design proposal recommended by the Commission on Veterans' Affairs, as well as the life-cycle cost estimate required by section 255.255, Florida Statutes. The Department of General Services shall assist the Commission on Veterans' Affairs in preparing the estimates for timely inclusion in the report.

Section 4. Upon completion of the memorial monument the Governor shall arrange an appropriate dedication and unveiling ceremony. The ceremony shall be held on a date of the Governor's choosing; provided that, the dedication shall occur on a date which is the anniversary of a significant and meaningful event in the history of the Vietnam Conflict.

Section 5. For the purpose of providing a living memorial to the efforts and sacrifices of Florida's veterans of the Vietnam Conflict, there is hereby created within the State Treasury the Florida Vietnam Veterans' Memorial Trust Fund, to be administered by the Department of Education. The fund shall be used to endow an academic chair at a university designated by the Board of Regents to allow for the study by a selected eminent scholar of issues pertaining to world peace, national security, and the methods for attaining both. The Department of Education may accept gifts, grants, and bequests to the Florida Vietnam Veterans' Memorial Trust Fund.

Section 6. Governor's Council on Handicapped Concerns; creation and duties.—

(1) There is created the Governor's Council on Handicapped Concerns, hereinafter referred to as the "council."

(2) The duties of the council shall be:

(a) To conduct educational and promotional programs throughout the state, in cooperation with national and state organizations serving handicapped persons, including the President's Committee on Employment of the Handicapped.

(b) To establish cooperative working relationships with public and private agencies concerned with improving employment and other opportunities for persons with disabilities in order to coordinate activities and achieve maximum effectiveness from existing resources.

(c) To provide leadership, direction and assistance to local community committees on employment of the handicapped by consultation, community organization and other means.

(d) To review the provision by public and private agencies of employment, transportation, housing, educational, vocational and other services to disabled persons, and to determine the adequacy and propriety of existing services and the need for new, improved, expanded, or redirected services.

(e) To advocate the rights of handicapped citizens so that they may achieve their optimum vocational, economic and social potential; provided, however, that this shall not include advocacy in litigation.

(f) To report the findings of this council annually on January 1, to the Governor and the Legislature.

Section 7. Location; members; terms; responsibilities; etc.—(1) The council is assigned to the Department of Labor and Employment Security. The council in the performance of its duties shall not be subject to control, supervision, or direction by the Department of Labor and Employment Security.

(2) The council shall appoint and may remove an executive director who shall serve under the direction, supervision, and control of the council.

(3) The executive director with the consent of the council may employ such personnel as may be necessary to adequately perform the functions of the council, within budgetary limitations.

(4) The council shall be composed of 15 members to be appointed by the Governor, plus 6 ex-officio members, as herein provided.

(5) The terms of appointed members shall be for 3 years except as provided herein. Of the initial appointments, five shall be for 3 years, five for 2 years, and five for 1 year. Thereafter, the terms of appointed members shall be for 3 years. Members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses in accordance with s. 112.061, Florida Statutes.

(6) Appointed members shall include, but shall not be limited to, disabled veterans, representatives of consumer organizations, employer associations and businessmen, service providers and other individuals and groups interested in the concerns of the handicapped. Outstanding state and local leadership shall be considered in selecting members. The majority of appointed members shall be persons with disabilities. No more than three appointed members shall be employees of the state.

(7) There shall be six ex-officio members who shall be nonvoting members of the council, as follows:

(a) The Secretary of Labor and Employment Security, or his designee;

(b) The Secretary of Health and Rehabilitative Services, or his designee;

(c) The Commissioner of Education, or his designee;

(d) The Secretary of Administration, or his designee;

(e) The Secretary of Transportation, or his designee; and

(f) The Secretary of Community Affairs, or his designee.

(8) The voting members shall annually elect one voting member to serve as chairman and one voting member to serve as vice-chairman of the council.

(9) The council shall meet at least four times yearly. A majority of the appointed members of the council shall constitute a quorum.

(10) The council may establish subcommittees which shall be given responsibility for conducting specific council programs and activities.

(11) The Governor may remove from office any appointed member for cause. The position of any member missing three consecutive meetings without cause shall be declared vacant. A member chosen to fill a vacancy other than a vacancy caused by expiration of a term shall be appointed for the unexpired portion of the term.

(12) The council shall have the authority to promulgate administrative rules pursuant to chapter 120, Florida Statutes.

(13) The council may apply for and accept funds, grants, gifts and services from the state, the United States Government or any of its agencies, or any public or private source, and is authorized to use funds derived from these sources to carry out the duties of the council. Such funds shall be deposited in the State Treasury and disbursed in accordance with chapters 215 and 216, Florida Statutes.

Section 8. This act is repealed on July 1, 1984, and the Governor's Council on Handicapped Concerns shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 9. Section 295.124, Florida Statutes, is amended to read:

295.124 State approving agencies for veterans' education training.—The Division of Veterans' Affairs ~~and the designated administrative unit of the Department of Education~~, under the authority of the ~~Department of Administration~~ ~~respective departments~~, shall act as the state approving ~~agency agencies~~ for purposes of veterans' education and training, in accordance with 38 U.S.C. s. 1771 and the applicable annual contracts between the state and the Federal Government.

Section 10. The powers, duties, personnel, funds, and functions of the Department of Education designated pursuant to s. 295.124, Florida Statutes, are hereby transferred to the Division of Veterans' Affairs of the Department of Administration by a type three transfer as set forth in s. 20.06(3), Florida Statutes.

Section 11. The Secretary of Administration is directed to apply now to the Veterans Administration for federal funds for the purpose of providing a domiciliary home for veterans in this state, which application is

necessary at the present time to ensure Florida a place on the availability list for such funds in 1986, said funds to provide 65 percent of the cost of such home.

Section 12. Section 115.07, Florida Statutes, is amended to read:

115.07 Officers and employees' leave of absence.—All officers or employees of ~~the this state, and of the several counties of the state, and of the or municipalities or political subdivisions of the this state~~, who are commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard, shall be entitled to leave of absence from their respective duties, without loss of pay, time or efficiency rating, on all days during which they shall be engaged in field or coast defense exercise or other training ordered under the provisions of the United States military or naval training regulations for such personnel when assigned to active duty; provided that leaves of absence granted as a matter of legal right under the provisions of this section shall not exceed 17 days in any one annual period; provided, further, that leaves of absence for additional or longer periods of time without pay for assignment to duty with civilian conservation corps units or other functions of a military character may be granted in the discretion of employing or appointing authority of any state, county, ~~or municipal, or political subdivision~~ employee and when so granted shall have the force and effect of other leaves of absence authorized by this section.

Section 13. Section 250.48, Florida Statutes, is amended to read:

250.48 Leaves of absence.—All officers and employees of the state, and of the several counties ~~of the state, and of the municipalities or political subdivisions of within~~ the state, who are members of the Florida National Guard, shall be entitled to leave of absence from their respective duties, without loss of pay, time or efficiency rating, on all days during which they shall be engaged in active state duty, field exercises or other training ordered under the provisions of this chapter, provided the leaves of absence without loss of pay, granted under the provisions of this section, shall not exceed 17 days at any one time.

Section 14. Paragraph (f) of subsection (1) and subsection (2) of section 320.10, Florida Statutes, 1982 Supplement, are amended to read:

320.10 Exemptions.—

(1) The provisions of ss. 320.08 and 320.09 do not apply to:

(f) Any motor vehicle owned and operated exclusively for the benefit of Boys' Clubs, the National Audubon Society, the National Children's Cardiac Hospital, a humane society, the Civil Air Patrol, ~~any nationally chartered veterans' organization that maintains a state headquarters in the state~~ ~~the American Legion~~, the Children's Bible Mission, the Girl Scouts of America, the Salvation Army, the Red Cross of America or any of its official vehicles operated by a local chapter, the United Service Organization, the Young Men's Christian Association, the Camp Fire Girls' Council, the Young Women's Christian Association, the Twenty-Niners, Inc., the Children's Home Society of Florida, or the Goodwill Industries, while used exclusively for carrying out the purposes of such organization, and any motor vehicle owned and operated by the Seventh-day Adventist Church for exclusive use as a community service van;

(2) Any such vehicle or mobile home, except one owned or operated exclusively by the Federal Government, shall be furnished a license plate, revalidation sticker, or mobile home sticker upon the proper application to the department and upon the payment of \$3 to cover the cost of same. For any motor vehicle or mobile home which is exempt under paragraph (1)(a), there shall be issued a license plate, revalidation sticker, or mobile home sticker prescribed by s. 320.06; and for any vehicle which is exempt under paragraphs (1)(c)-(i), there shall be issued a license plate under series "X," ~~provided that not more than two series "X" license plates shall be issued to each nationally chartered veterans' organization that maintains a state headquarters in this state~~. Vehicles exempt under this provision must be equipped with proper plates showing such exempt status.

Section 15. Section 320.10, Florida Statutes, is repealed on October 1, 1984, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes, the Regulatory Sunset Act.

Section 16. This act shall take effect July 1, 1983.

**Amendment 2**—On page 1 in the title, line 14, strike “providing an appropriation;” and insert:

creating the Governor’s Council on Handicapped Concerns; providing legislative intent; providing for the membership, terms of office, powers, and duties of the council; providing for review and repeal pursuant to the Sundown Act; amending s. 295.124, Florida Statutes, providing that the Division of Veterans’ Affairs of the Department of Administration shall act as the state approving agency for purposes of veterans’ education and training pursuant to federal law; providing for the administrative transfer of certain existing powers, duties, personnel, funds, and functions of the Department of Education to the division; directing the Secretary of Administration to apply to the Veterans Administration for federal funds for a certain purpose; amending ss. 115.07, 250.48, Florida Statutes; providing that political subdivisions of the state shall grant leaves of absence without loss of pay to certain employees; amending s. 320.10, Florida Statutes, 1982 Supplement, providing that nationally chartered veterans’ organizations maintaining state headquarters in Florida, rather than the American Legion, shall be eligible for reduced rate, series “X” license plates;

Senator Maxwell moved the following amendment which was adopted:

**Amendment 1 to House Amendment 1**—On page 7, lines 10-26, strike all of said lines (sections 9 and 10), and renumber subsequent sections

On motions by Senator Dunn, the Senate concurred in House Amendment 1 as amended and in House Amendment 2 and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 435 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Johnston	Myers
Barron	Gersten	Kirkpatrick	Neal
Beard	Girardeau	Langley	Plummer
Castor	Gordon	Malchon	Rehm
Childers, D.	Grant	Mann	Stuart
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Dunn	Jenne	McPherson	Weinstein
Fox	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Hair

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 3, 4, 5, 6, 8, 9, 12, 13, 15 and 16, has refused to concur in Senate Amendments 1, 2, 7, 10, 11 and 14 and requests the Senate to recede; has further amended and passed HB 1321, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**HB 1321**—A bill to be entitled An act relating to ad valorem taxation; amending ss. 30.49(4) and 129.201(4), Florida Statutes, 1982 Supplement; specifying that changes may be made in the proposed budget of the sheriff or supervisor of elections at any hearing under s. 200.065, Florida Statutes; amending s. 193.122, Florida Statutes, 1982 Supplement; providing procedures for a certification of assessment rolls by the property appraisal adjustment board when rolls are extended prior to completion of board hearings under certain circumstances; providing for a second certification and for recertification of the tax rolls by the property appraiser; providing for extension of taxes against parcels subject to judicial or administrative review; providing for submission of assessment rolls to the executive director of the Department of Revenue after recertification; amending ss. 193.076(3) and 193.077(3), Florida Statutes, relating to duties of property appraiser with respect to listing property of new businesses and property separately assessed as expansion-related property, to conform; amending s. 195.052, Florida Statutes, 1982 Supplement; correcting a cross reference; amending s. 194.171, Florida Statutes, 1982 Supplement; providing that the time limitation for actions to contest an assessment shall be 60 days from the date of recertification under certain circumstances; requiring that a taxpayer pay not less than the amount of

tax he admits to be owing before bringing an action to contest an assessment; providing that payment of tax shall not be deemed an admission that the tax was due and shall not prejudice the taxpayer’s right to bring action; providing that certain requirements are jurisdictional; amending s. 197.0134, Florida Statutes, 1982 Supplement; providing that no tax certificate or warrant shall be issued with respect to delinquent taxes on certain property if a petition with respect thereto has not received final action by the property appraisal adjustment board; amending s. 200.001(8)(f), Florida Statutes, 1982 Supplement; revising the definition of “voted millage”; amending s. 200.085(2)(a), Florida Statutes, 1982 Supplement, and adding paragraph (2)(c) and subsections (5) and (6); removing a limitation on authority of local governments to exceed millage limitations imposed with respect to the second and third years of participation in the local government half-cent sales tax; authorizing certain counties which borrowed money during fiscal year 1981-1982 as the result of action by the Administration Commission to exceed said millage limitations; providing limitations; providing an exception to said millage limitations when the responsibility for providing certain services is legally transferred; providing an exception for certain newly created municipal service taxing units; providing that millage limitations imposed on local governments participating in the local government half-cent sales tax may be exceeded if approved by referendum; defining “voted millage” with respect to said section; repealing s. 218.60(1)(b), Florida Statutes, 1982 Supplement, and amending subsection (3) thereof; deleting a definition of “voted millage”; specifying that provisions relating to estimates of moneys provided to such participating local governments apply to the first year of participation; amending the introductory paragraph of s. 192.001, Florida Statutes, 1982 Supplement; providing that definitions set out in chapter 200, Florida Statutes, are applicable to provisions relating to ad valorem tax administration; amending s. 200.069, Florida Statutes, 1982 Supplement; revising requirements with respect to the format of the notice of proposed property taxes; providing for an entry for water management districts, for a single entry for other independent special districts, and a single entry for voted levies for debt service; providing for inclusion of special assessments collected using the ad valorem method; modifying the requirement that the form approximate the facsimile set out in chapter 80-274, Laws of Florida; deleting a requirement that the notice for an upcoming year in which a county or municipality will first receive funds from the local government half-cent sales tax shall contain a statement with respect thereto; amending s.218.63(4), Florida Statutes, 1982 Supplement; deleting a requirement that in the year preceding the year of such initial receipt of funds, proposed millage rates submitted to the property appraiser shall be accompanied by the “rates without sales tax”; amending s. 197.0126, Florida Statutes, 1982 Supplement; specifying that provisions which authorize the collection of special assessments in the same manner as ad valorem taxes shall be optional, rather than mandatory, subject to certain conditions; providing for application of certain collection and commission provisions; providing alternative procedures; exempting certain special assessments for 1982 from certain requirements; amending s. 196.111, Florida Statutes; providing that certain notice to taxpayers with respect to application for homestead exemption and reimbursement therefor by the county shall be optional, rather than mandatory; creating s. 194.013, Florida Statutes; authorizing property appraisal adjustment boards to impose, by resolution, a fee for the filing of petitions; providing exemptions; providing for disposition of such fees and for refund under certain circumstances; providing for waiver of the fee for certain taxpayers; amending s. 194.032(1), Florida Statutes, 1982 Supplement; deleting provisions relating to shortening of time periods specified with respect to hearings of said boards; renumbering portions of s. 194.032, Florida Statutes, 1982 Supplement, relating to property appraisal adjustment board hearings, as ss. 194.034, 194.035, 194.036, and 194.037, Florida Statutes, and amending subsections (3), (5), and (6); correcting cross references; providing that property appraisers, petitioners, and witnesses shall be required on request of either party to testify under oath; revising provisions relating to testimony and materials denied to the property appraiser by the petitioner; transferring and amending s. 194.032(7), Florida Statutes, 1982 Supplement; amending s. 193.122(3) and (5), Florida Statutes, 1982 Supplement, and s. 194.181(1) and (2), Florida Statutes; correcting cross references; amending s. 200.065(2)(d) and (f), (3)(f), and (11)(a), Florida Statutes, 1982 Supplement, clarifying language; revising time periods with respect to public hearings to finalize the budget, school district tentative budget advertisements and hearings, and required periods between mailing of notice and hearing; revising time periods with respect to budget hearing held by a multicounty taxing authority when mailing of notice of proposed taxes is delayed beyond August 29 or beyond August 15; providing for determination of date of commencement of specified time periods; amending s.

200.066, Florida Statutes, 1982 Supplement; prohibiting a unit of local government or a dependent special taxing district created or established after January 1 from levying an ad valorem tax for the upcoming year; amending s. 200.068, Florida Statutes, 1982 Supplement; requiring that a copy of the property appraisal adjustment board's notice of tax impact be included as part of a county's certification of compliance with millage determination requirements to the Department of Revenue; amending s. 236.081(4), Florida Statutes; revising provisions relating to prescription of required local effort for school districts by the Legislature; revising deadlines for certification by the department to the Commissioner of Education of assessed valuations for school purposes and for computation by the commissioner of millage rate necessary to generate required local effort; providing for utilization of 95 percent of nonexempt assessed valuation when computing millage required for equalization; providing an effective date.

**House Amendment 1**—On page 45, between lines 3 and 4 add new sections to read:

Section 32. Section 170.01, Florida Statutes, 1982 Supplement, is amended to read:

170.01 Authority for providing improvements and levying and collecting special assessments against property benefited.—

(1) ~~Any municipality city, town, or municipal corporation of this state, hereinafter referred to as the "municipality," whether organized under the general law, or under special act, or having a charter adopted by vote under an enabling act, (hereinafter referred to as the "governing authority")~~ may, by its governing authority, provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and draining of streets, boulevards, and alleys and for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing of sidewalks; ~~order the construction, or reconstruction, repair, renovation, excavation, grading, stabilization, and upgrading of greenbelts, swales, culverts, of sanitary sewers, storm sewers, outfalls, canals, primary, secondary, and tertiary and drains, waterbodies, marshlands, and natural areas, all or part of a comprehensive stormwater management system, including the necessary appurtenances and structures thereto and including, but not limited to dams, weirs, and pumps; order the construction or reconstruction of water mains, water laterals, and other water distribution facilities, including the necessary appurtenances thereto; provide for the drainage and reclamation of wet, low, or overflowed lands; provide for street lighting and recreational areas; provide for offstreet parking facilities, parking garages, or similar facilities; provide for mass transportation systems; and provide for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefited property. However, offstreet parking facilities, parking garages, or other similar facilities and mass transportation systems shall have prior approval of affected property owners. Any municipality which is legally obligated for providing capital improvements for water or sewer facilities within an unincorporated area of the county may recover the costs of the capital improvements by levying and collecting special assessments for the purposes authorized herein on the specially benefited property; however, collections of the special assessment shall not take place until the specially benefited property connects to the capital improvement.~~

(2) *Special assessments may be levied for the purposes enumerated herein and shall be levied only on benefited real property at a rate of assessment based on the special benefit accruing to said property from such improvements. A special benefit shall be deemed to occur:*

(a) *when the improvements enumerated herein are an intergral part of or necessary to a service which is provided within a portion of the jurisdiction of the municipality imposing the assessment, which improvements are not provided throughout said jurisdiction, or*

(b) *when an addition is made to the fixed capital facilities of the municipality imposing the assessment; when the addition represents a net increase in the capacity of all such facilities of the municipality; and when similar facilities serving a majority of the remainder of the municipality existed prior to imposition of the assessment.*

Section 33. Section 170.09, Florida Statutes, 1982 Supplement, is amended to read:

170.09 Priority of lien; interest; and method of payment.—The special assessments shall be payable at the time and in the manner stipu-

lated in the resolution providing for the improvement; shall remain liens, coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate not to exceed 8 percent per year, or, if bonds are issued pursuant to this chapter, at a rate not to exceed 1 percent above the rate of interest at which the improvement bonds authorized pursuant to this chapter and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid *and only for capital outlay projects, be made payable in equal installments over a period not to exceed 20 years not more than 20 equal yearly installments*, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority.

(Renumber subsequent section.)

**House Amendment 2**—On page 45, between lines 3 and 4 insert new sections to read:

Section 34. Creation of mobile home park recreation districts authorized.—Each municipality and county in the state is authorized to create one or more mobile home park recreation districts. Each such district shall be limited to the boundaries of a mobile home park, and shall be established by ordinance approved by a vote of the electors residing in the proposed district. Such ordinance, as it may from time to time be amended by the governing body of said municipality or county and approved by a vote of the electors in the district, shall constitute the charter of the district. The electors residing in a proposed district may petition the governing body of the municipality or county to create a mobile home park recreation district. If a majority of electors of the proposed district has signed the petition, no referendum shall be required to create the district.

Section 35. The governing body.—

(1) The governing body of a recreation district created pursuant to section 1 shall consist of a nine-member board of trustees elected by the electors of the district. Persons desiring to have their names placed on the ballot for election as trustees of the district shall be qualified electors of the district and shall present a written petition to the supervisor of elections of the county not less than 60 days prior to the date of each election, which petition shall be signed by the applicant and not less than 25 other electors of the district. The Supervisor of Elections shall be entitled to a reasonable reimbursement for conducting each election, payable out of general funds of the district.

(2) The ordinance creating the district shall specify the date of the election. Notice of the election, setting forth the names of the persons proposed as trustees of the district, shall be given by the supervisor of elections by mail addressed to each qualified elector not less than 15 days before the date of the election, and shall also be published one time at least 10 days prior to such election in a newspaper of general circulation published in the county. If no such newspaper is published in the county, the supervisor shall cause written or printed notices of the election to be posted in 5 public places within said district. Notwithstanding the provisions of s. 101.20, Florida Statutes, the publication of a sample ballot is not required.

(3) In the election held to elect the first board of trustees for the district, the candidates receiving the first, third, fifth, seventh, and ninth highest number of votes shall be elected to serve for a term of 2 years, and the candidates receiving the second, fourth, sixth, and eighth highest number of votes shall be elected to serve for a term of 1 year. Thereafter, elections for the board of trustees shall be held annually on a date to be specified in the ordinance creating the district, and those persons elected after the initial election shall be elected to serve for a term of 2 years. Trustees may succeed themselves in office.

(4) The board of trustees shall organize itself by electing from its number a chairman, two vice chairmen, a secretary, and a treasurer, after each election. The trustees shall not receive any compensation for their services but shall be entitled to be reimbursed from funds of the district for any authorized disbursements they may properly incur in behalf of the district. Each trustee authorized to sign checks of the district or otherwise designated to handle its funds shall, before he enters upon such duties, execute to the Governor of the state, for the benefit of the district, a good and sufficient bond approved by a circuit judge of the county in which the district is established in the sum of \$10,000 with a qualified corporate surety, conditioned to faithfully perform the duties of his office

and to account for all funds which may come into his hands as such trustee. All premiums for such surety on such bonds shall be paid from the funds of the district. The trustees shall conduct their business as a public body, and shall be subject to all laws of the state relating to open government, financial disclosure, avoidance of conflicts of interest, and ethics.

(5) Any vacancy on the board of trustees shall be filled for the unexpired term by the appointment, by the remaining trustees of a successor from among the qualified electors of the district. Any trustee who fails to discharge his duties may be removed for cause by the board of trustees after due notice and an opportunity to be heard upon charges of malfeasance or misfeasance. A trustee who is not guilty of malfeasance or misfeasance in office shall be relieved of any personal liability for acts done by him while holding office. Any trustee who is made a party to any action, suit, or proceeding solely by reason of his holding office in the district shall be indemnified by the district against reasonable expenses, including attorney's fees, incurred by him in defending such suit, action, or proceeding, except with respect to matters wherein it is adjudged that such trustee is liable for gross negligence or misconduct in the performance of his duties.

Section 36. Powers of mobile home park recreation districts.—An ordinance creating or amending the charter of a mobile home park recreation district may grant to the recreation district the following powers and all further or additional powers as the governing body of the municipality or county establishing the district deems necessary or useful in order to exercise such powers:

- (1) To sue and be sued and to have a corporate seal.
- (2) To contract and be contracted with.
- (3) To acquire, purchase, construct, improve, equip and maintain streets and lights, recreational facilities, and other common areas of all types, including real and personal property, within the boundaries of the existing platted mobile home park to be acquired by the district; such acquisition may be by purchase, lease, or gift.
- (4) To levy and assess a special assessment known as a "recreation district tax" against all improved residential parcels situated within the district for the purpose of providing funds to implement the powers of the district, subject to the following:
  - (a) The fiscal year of the district shall commence October 1 of each year and end on September 30 of the following year. The trustees shall, on or before April 1 of each year, prepare an annual financial statement of income and disbursements during the prior fiscal year. On or before July 1 of each year, the trustees shall prepare and adopt an itemized budget showing the amount of money necessary for the operation of the district for the next fiscal year, and the special assessment to be assessed and collected upon improved residential parcels of the district for the next ensuing year. Such financial statement shall be published once during the month of April each year in a newspaper of general circulation within the county. A copy of the statement and a copy of the budget shall also be furnished to each owner of an improved residential parcel within 30 days after its preparation and a copy made available for public inspection at the principal office of the district at reasonable hours.
  - (b) The trustees shall, on or before July 30 of each year, by resolution, fix the amount of the assessment for the next ensuing year. These special assessments may be collected in the manner provided for ad valorem taxes under Chapter 197, Florida Statutes, subject to the conditions of section 197.0126. Prior to the adoption of the resolution fixing the amount of the assessment, the trustees shall hold a public hearing at which time qualified electors of the district may appear and be heard. Notice of the time and place of the public hearing shall be published once in a newspaper of general circulation within the county at least 21 days prior to the public hearing. For the purpose of determining property subject to the district assessment, an "improved residential parcel" means a platted lot on which a mobile home may be erected. The district assessment shall not be an ad valorem tax but a special assessment assessed equally against all improved residential parcels. Each parcel of property in the district is hereby declared to be uniformly benefited by the services of such district.
  - (c) The district assessment shall be a valid lien upon each improved residential parcel of land so assessed until the assessment has been paid, and shall be considered a part of the county tax, subject to the same penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the state for the collection of such taxes.

(5) To issue bonds or notes to finance, in whole or in part, the cost of construction, acquisition, or improvement of common real and personal property of the district. The trustees, in determining such costs, may include all costs and estimated costs of the issuance of the bonds or notes; all engineering, inspection, fiscal, and legal expenses; all costs of preliminary surveys, plans, maps, and specifications; initial reserve funds for debt service; the costs of the services of persons, firms, corporations, partnerships, or associations employed, or consultants, advisors, engineers, or fiscal, financial, or other experts in the planning, preparation, and financing of the district. The trustees are hereby authorized to employ and to enter into agreements or contracts with consultants, engineers, attorneys, certified public accountants, or fiscal, financial, or other experts for the planning, preparation, and financing of the district, or any asset thereof, upon such terms and conditions as the trustees deem desirable and proper. The district may pledge to the punctual payment of bonds, notes, or revenue certificates, and interest thereon, an amount of the revenue from the special assessments known as recreation district taxes as well as fees derived from the use of facilities and services of the district, including acquisitions, extensions, and improvements thereof, sufficient to pay the bonds, notes, and revenue certificates and the interest thereon as the same shall become due, and to create and maintain reasonable reserves therefor.

(6) To operate and maintain recreational facilities or to enter into arrangements with others for such operation and maintenance pursuant to contract, lease, or otherwise.

(7) To establish, charge, and collect reasonable fees for admission to or use of recreational facilities, provided that the use of the facilities shall be extended to the general public as well as residents and nonresident owners within the district, their family members, and guests, and other such persons and groups as the board may authorize from time to time, and to apply such fees to the operation, maintenance, improvement, enlargement, or acquisition of recreational facilities or to the payment of bonds, notes, or revenue certificates of the district.

(8) To adopt and enforce rules for the use of the recreational facilities owned or operated by the district.

(9) To employ all personnel, including private security guards, deemed necessary for the operation and maintenance of the facilities of the district.

(10) To adequately insure the facilities, properties, and operations of the district as well as the trustees of the district, jointly and severally, in the performance of their duties.

(11) To buy, sell, rent, or lease real and personal property and to deliver purchase money notes and mortgages in connection with the acquisition of property.

(12) To adopt rules and regulations not inconsistent with existing deed restrictions and to use district funds in the administration and enforcement of such rules, regulations, and deed restrictions.

(13) To enter into contracts involving the purchase, lease, conveyance or other manner of acquisition of common real or tangible personal property but, in any instance when the cost, price, or consideration therefor exceeds \$25,000, including all obligations, proposed to be assumed in connection with such acquisition, then only if:

- (a) The trustees by two-thirds vote have approved the terms and conditions of such acquisition by written resolution;
- (b) Within not less than 30 nor more than 60 days after the date of the resolution, the trustees certify the resolution to the supervisor of elections for the county for a referendum election; and
- (c) A majority of qualified electors of the district approve the resolution by referendum election.

Section 37. Bonds.—The trustees may construct, acquire, or improve real or personal property of the district, and may issue refunding bonds or other obligations for such purposes in conformance with applicable provisions of ch. 215, Florida Statutes. Public bonds, notes, and other securities may be issued to provide funds for such purposes by resolution adopted by the trustees, which may be adopted at the same meeting at which it is introduced, and may take effect immediately upon adoption. The bonds shall bear interest, payable semiannually, at a rate fixed in such resolution, subject to s. 215.84, Florida Statutes, and may be in one or more series, may bear such date or dates, may mature at such time or

times not exceeding 40 years from their respective dates, may be made payable in such medium of payment, at such place, within or without the state, may carry such registration privileges, may be subject to such terms of redemption, with or without premium, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as provided in such resolution or a subsequent resolution. The bonds may be sold all at one time or in blocks from time to time, at public or private sale, or, if refunding bonds, may also be delivered and exchanged for the outstanding obligations to be refunded thereby, in such manner as the trustees determine by resolution, and at such price or prices computed according to standard tables of bond value as will yield to the purchasers or the holders of the obligations surrendered in exchange in the case of refunding bonds, income at a rate pursuant to s. 215.84, Florida Statutes, to the maturity dates of the several bonds so sold or exchanged on the money paid or the principal amount of obligations surrendered therefor to the district. Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such provisions as the trustees determine may be issued to the purchaser or purchasers of the bonds. The bonds, and such interim certificates or receipts or temporary bonds, shall be fully negotiable.

**Section 38 Abolishment of the district.**—The district created pursuant to this act may be abolished by a majority vote of the qualified electors of the district at an election called by the trustees of the district for such purpose, which election shall be held and notice thereof given under the same requirements as are set forth for the creation of the district. The district may not be abolished while it has outstanding indebtedness unless adequate provision is made for the liquidation of such outstanding indebtedness.

**Section 39.** Each fire control or fire prevention district created by special act is authorized to levy special charges or assessments to fund the district in the manner provided by law. Any such charge or assessment heretofore levied by an existing fire control or fire prevention district is hereby ratified, confirmed, and validated in all respects.

**Section 40.** Subsection (1) of section 205.053, Florida Statutes, is amended to read:

205.053 Occupational licenses; dates due and delinquent; penalties.—

(1) All licenses shall be sold by the appropriate tax collector beginning September 1 of each year and shall be due and payable on or before October 1 of each year and expire on September 30 of the succeeding year. *In the event that October 1 falls on a weekend or holiday, the tax shall be due and payable on or before the first working day following October 1.* Provisions for partial licenses may be made in the resolution or ordinance authorizing such licenses. Those licenses not renewed *when due and payable by October 1* shall be considered delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the occupational license fee for the delinquent establishment.

**House Amendment 3**—On page 1, line 12, strike: Paragraph (c) is and insert: Paragraphs (c), (d), and (e) are

**House Amendment 4**—On page 1, line 12, strike: paragraph (2)(c) and insert: paragraphs (2)(c), (d) and (e)

**House Amendment 5**—In title, on page 1, line 2, strike: ad valorem

**House Amendment 6**—In title, on page 4, line 11, after the semicolon (“;”) insert: waiving the requirements of Chapter 283 and part I of Chapter 287 for certain purposes;

**House Amendment 7**—In title, on page 6, line 26, after the semicolon (“;”), insert: providing procedures for the creation of mobile home park recreation districts; providing for membership, duties, and terms of office of the governing body of a district; providing power of the district, including the power to levy and assess special assessments and issue bonds; providing for abolishment of the districts; authorizing fire control and fire prevention districts created by special act to levy certain special charges or assessments; ratifying previous charges or assessments; amending s. 205.053(1), Florida Statutes, clarifying the due date for local occupational license taxes;

**House Amendment 8**—On page 45, line 3, insert:

Section 32. Subsection (7) is added to s. 195.097, F.S., 1982 Supplement, to read:

195.097 Postaudit notification of defects; supervision by the department.—

(7) *Notwithstanding other provisions of this section, the Executive Director is not required to notice as a defect a class or strata of property which, based upon the evaluation of any review, studies, or findings of the Division of Ad Valorem Tax, indicates an assessment level of more than 100% of just value in any class or strata of property on the prior year's tax roll.*

(Renumber subsequent section.)

**House Amendment 9**—In title, on page 6, line 26, after the semi-colon (“;”), insert: adding subsection (7) to s. 195.097, F.S., 1982 Supplement; providing that the Executive Director of the Department of Revenue shall not be required to notice as a defect in a tax roll an assessment of more than 100% in any classification or stratum;

On motions by Senator Maxwell, the Senate receded from Senate Amendments 1, 2, 7, 10, 11 and 14 and concurred in the House amendments.

HB 1321 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Gersten	Langley	Rehm
Beard	Gordon	Malchon	Stuart
Carlucci	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Henderson	Maxwell	Vogt
Childers, W. D.	Hill	McPherson	Weinstein
Crawford	Jenne	Meek	
Dunn	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

Vote after roll call:

Yea—Girardeau, Hair

On motion by Senator Rehm, by unanimous consent the following House Message was taken up:

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 557 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Corrections, Probation & Parole and Representatives Reaves and C. Brown—

**CS for HB 557**—A bill to be entitled An act relating to corrections; amending s. 944.19, Florida Statutes; providing for education in the correctional system; creating a Council on Correctional Education under the Secretary; providing for terms, duties, and reimbursement of members; providing for legislative appropriations; providing for policies, goals and objectives of correctional education; amending s. 945.091(4), Florida Statutes, and adding a new subsection (2); extending the limits of confinement of an inmate to allow certain inmates the opportunity to participate in college-level academic programs; deleting burglary from the list of crimes for which any such inmate shall not be authorized to attend such classes; providing an effective date.

—was read the first time by title. On motion by Senator Rehm, the rules were waived and by two-thirds vote CS for HB 557 was placed on the special order calendar.

On motion by Senator Rehm, by two-thirds vote CS for HB 557 was read the second time by title.

Senator Rehm moved the following amendments which were adopted:

**Amendment 1**—On page 3, lines 4-5, strike “as provided by law for the unexpired portion of the term” and insert: a new subsection (3) and renumber subsequent subsections accordingly:

(3) Except for the Chief of the Bureau of Education, each member shall serve a term or four years or, if an appointment is made to fill a vacancy, the appointment shall be for the unexpired portion of the term.

**Amendment 2**—On page 3, lines 4-7, strike all of said lines and insert: *Community College Program Fund* as provided by law.

(3) Except for the Chief of the Bureau of Education, each member shall serve a term of four years or, if an appointment is made to fill a vacancy, the appointment shall be for the unexpired portion of the term. ~~This program shall be operated in the various institutions only with the approval of the State Board of Education.~~

(Renumber subsequent subsections.)

On motion by Senator Rehm, by two-thirds vote CS for HB 557 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Kirkpatrick	Rehm
Barron	Gersten	Langley	Stuart
Beard	Grant	Malchon	Thomas
Carlucci	Grizzle	Mann	Thurman
Castor	Henderson	McPherson	Vogt
Childers, D.	Hill	Meek	Weinstein
Childers, W. D.	Jenne	Myers	
Dunn	Jennings	Neal	
Fox	Johnston	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau, Hair

On motion by Senator Barron, the following resolution was introduced:

By Senator Barron—

**SCR 1209**—A concurrent resolution extending the regular 1983 legislative session under the authority of Article III, Section 3, of the State Constitution, establishing limitations on the scope of legislation to be considered; providing for exceptions; providing for recess of both houses.

WHEREAS, the sixty days of the 1983 regular session of the Florida Legislature will expire on June 3, 1983, and the necessary tasks of the session, including the making of certain appropriations, have not been completed, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:*

The 1983 regular session of the Florida Legislature is extended until midnight, Monday, June 13, 1983, under the authority of Article III, Section 3 of the State Constitution.

The regular session so extended shall consider only the following matters:

(1) Senate Bill 1195, the general appropriations bill, the Senate and House Conference Committee Report thereon, and related implementing measures, including legislation necessary to fund the general appropriations bill;

(2) Committee Substitute for Committee Substitute for Senate Bill 357 relating to education, and the House and Senate Conference Committee Report thereon; and

(3) Committee Substitute for House Bill 1129 relating to water and hazardous wastes, and the House and Senate Conference Committee Report thereon.

All other measures in both houses are hereby indefinitely postponed and withdrawn from consideration of their respective houses and neither presiding officer shall recognize any motion to take up any measure hereby postponed and withdrawn.

Upon adjournment Friday, June 3, 1983, the houses shall stand in recess until 10:00 a.m. on Thursday, June 9, 1983; however, either house may reconvene upon the call of its presiding officer.

—which was read the first time in full. On motions by Senator Barron, by two-thirds vote SCR 1209 was placed on the calendar and by two-thirds vote read the second time by title. SCR 1209 was adopted by the required three-fifths vote of the membership and certified to the House. The vote on adoption was:

Yeas—37

Mr. President	Frank	Langley	Rehm
Barron	Gersten	Malchon	Scott
Beard	Gordon	Mann	Stuart
Carlucci	Grant	Margolis	Thomas
Castor	Grizzle	Maxwell	Thurman
Childers, D.	Henderson	McPherson	Vogt
Childers, W. D.	Jenne	Meek	Weinstein
Crawford	Jennings	Myers	
Dunn	Johnston	Neal	
Fox	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

**Senator Crawford presiding**

**LOCAL CALENDAR**

**HB 1251**—A bill to be entitled An act relating to Lee County; amending s. 1, chapter 81-414, Laws of Florida; exempting Lee County Hospital Board of Directors from the uniform election requirements; providing for staggered terms for board directors; changing from odd-numbered year elections to even-numbered year elections; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 1251 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**HB 591**—A bill to be entitled An act relating to Pinellas County; providing for the issuance of a Special Restaurant Alcoholic Beverage License for any historic building in Downtown St. Petersburg which meets certain conditions and which is part of the redevelopment of the Downtown Area; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote HB 591 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**HB 1003**—A bill to be entitled An act relating to the East County Water Control District, located in Lee and Hendry Counties; amending s. 1, chapter 63-1549, Laws of Florida, as amended, extending the boundaries of the district; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 1003 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**CS for HB 588**—A bill to be entitled An act relating to Pinellas County; providing for the issuance of licenses for gill net fishing in the county by the Department of Natural Resources; providing a permit fee and providing for the use of funds derived therefrom; requiring the display of permit numbers; providing a penalty; providing for the use of similar licenses; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote CS for HB 588 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**SB 951**—A bill to be entitled An act relating to drainage and water control; amending s. 298.14, Florida Statutes; increasing the maximum compensation allowable to a member of the water control district board of supervisors; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendment which was adopted:

**Amendment 1**—In title, on page 1, line 11, after the semicolon insert: amending s. 298.14, Florida Statutes; increasing the maximum compensation allowable to a member of the water control district board of supervisors;

On motion by Senator Thurman, by two-thirds vote SB 951 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**HB 772**—A bill to be entitled An act relating to St. Lucie County; enacting the St. Lucie County Environmental Control Act; providing short title; providing declaration of intent; providing definitions; providing for an Environmental Control Board; providing organization, duties and powers; providing for Environmental Control Officer appointment, duties and powers; providing exemptions; providing for hearing board organization, duties and powers; providing for appeals from actions or decisions of Environmental Control Officer; providing procedure; providing for judicial review; providing for civil enforcement; providing for enforcement of hearing board orders and injunctive relief; providing for criminal penalties; providing civil penalties; providing for civil fines to be liens; providing for construction in relation to other law; providing for no change in powers of Health Department; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 772 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Langley	Rehm
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Mann	Thomas
Castor	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—1

Gersten

**HB 1071**—A bill to be entitled An act relating to Okaloosa and Walton Counties; creating the Choctawhatchee Bay Causeway/Bridge Authority; providing a purpose; providing for membership; providing for appointments of office; providing for terms of office; providing for definition under Chapter 119, Florida Statutes; providing for the authority to be subject to the requirements of Chapter 286, Florida Statutes, the "government in the sunshine" law; providing for approval of the Authority budget by the county commissions of both Okaloosa and Walton County; providing for the election of officers; providing the definition of a quorum; providing powers of the authority; providing the power to construct a causeway/bridge transversing the Choctawhatchee Bay; providing the power to fix, charge, and collect fees, tolls, rents, and charges; providing the power to enter into contracts; providing the power to act as lessor and lessee; providing the power to issue bonds; providing the power to borrow money and issue notes; providing for the hiring, employment, and contracting of staff persons; providing for definition of the authority under part II of Chapter 159, Florida Statutes; providing for an annual audit of financial records; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 1071 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Grizzle	Malchon	Scott
Beard	Hair	Mann	Stuart
Childers, W. D.	Henderson	Margolis	Thomas
Crawford	Hill	McPherson	Thurman
Fox	Jenne	Myers	Vogt
Girardeau	Jennings	Neal	Weinstein
Gordon	Johnston	Plummer	
Grant	Kirkpatrick	Rehm	

Nays—4

Castor	Frank	Gersten	Meek
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Vote after roll call:

Yea—Langley

Nay to yea—Castor, Meek

**SPECIAL ORDER**

Consideration of CS for SB 1142 was deferred.

On motion by Senator Thurman, the rules were waived and the Senate reconsidered the vote by which—

**SB 952**—A bill to be entitled An act relating to pari-mutuel wagering; creating s. 550.333, Florida Statutes, providing legislative intent with respect to permits and licenses issued by the Division of Pari-mutuel Wagering; authorizing the division to issue permits to nonprofit corporations to conduct certain horseracing meets without pari-mutuel wagering conducted in conjunction therewith; providing certain requirements for the issuance of nonwagering permits; requiring horses in nonwagering meets to be registered with certain breed registration organizations; requiring approval by the Florida Pari-mutuel Commission for racing dates by nonwagering permitholders; providing for the restriction of dates to those not in conflict with dates of any other pari-mutuel permitholders within 50 miles of the nonwagering permitholders under certain circumstances; requiring the commission to notify certain pari-mutuel permitholders of applications for nonwagering racing dates; authorizing issuance of an annual nonwagering license; authorizing the division to exclude persons not of good moral character from participating in nonwagering meets; authorizing the division to order nonwagering meets to cease operation if found to be for any illegal purpose; providing an effective date.

—as amended passed June 2.

On motion by Senator Thurman, the Senate reconsidered the vote by which SB 952 was read the third time.

Senator McPherson moved the following amendments which were adopted:

**Amendment 14**—On page 4, line 4, insert a new section 2 to read:

Section 2. Subsection (7) of section 550.33, Florida Statutes, is amended and subsection (10) is added to said section to read:

550.33 Quarter horse racing.—

(7)(a) Any quarter horse racing permitholder operating under a valid permit issued by the Division of Pari-mutuel Wagering is authorized to substitute other races of other breeds of horses which are, respectively, registered with the *Jockey Club*, the International Arabian Horse Association, Appaloosa Horse Club, American Paint Horse Association, or the Palomino Horse Breeders of America, for no more than 50 percent of the quarter horse races daily. ~~In addition to the breeds authorized for substitution, horses registered with the Jockey Club may be substituted for quarter horse races at any time for any number of races, provided the total days do not exceed 20 percent of the maximum number of days authorized for quarter horse racing as provided in s. 550.09.~~

(b) Substitution of races of horses registered with the Jockey Club shall be subject to the taxes imposed by s. 550.161, the provisions of this act to the contrary notwithstanding. Any permittee operating within an area of 50 air miles of a licensed thoroughbred track cannot substitute thoroughbred races under this section while a thoroughbred horserace meet is in progress within said 50 miles. No races comprised of thoroughbred horses under this section registered with the Jockey Club shall be permitted during the period beginning September 1 and ending on January 5 of each year in any county where there is one or more licensed dog tracks conducting a race meet. Nothing contained herein shall be interpreted in any manner to affect the competitive award of matinee performances to jai alai frontons or dog tracks in opposition to races comprised of thoroughbred horses registered with the Jockey Club under this section.

(10) Any nonprofit corporation, including but not limited to agricultural cooperative marketing associations, organized and incorporated under the laws of this state may apply for a quarter horse racing permit and operate pari-mutuel race meets under such permit, provided that all pari-mutuel taxes and fees applicable to such racing are paid by the corporation; and provided further that insofar as its pari-mutuel operations are concerned, the corporation shall be treated as a corporation for profit and shall be subject to taxation on all property used and profits earned in connection with its pari-mutuel operations.

(Renumber subsequent sections.)

**Amendment 15**—In title, on page 1, line 29, after “purpose;” insert: amending s. 550.33(7), Florida Statutes, and adding subsection (10) to said section; authorizing certain nonprofit corporations to operate pari-mutuel race meets under certain circumstances;

On motion by Senator Thurman, by two-thirds vote SB 952 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Barron	Gordon	Kirkpatrick	Neal
Beard	Grant	Langley	Plummer
Carlucci	Grizzle	Malchon	Rehm
Childers, D.	Hair	Mann	Stuart
Childers, W. D.	Henderson	Margolis	Thomas
Dunn	Hill	Maxwell	Thurman
Fox	Jenne	McPherson	Vogt
Gersten	Jennings	Meek	Weinstein
Girardeau	Johnston	Myers	

Nays—None

**CS for SB 1142**—A bill to be entitled An act relating to the Department of Corrections; amending s. 945.11(1), Florida Statutes; providing that inmates used by political subdivisions, municipalities and agencies and institutions of the state and nonprofit corporations for public works projects may be supervised as prescribed by the department; authorizing the department to adopt rules for such supervision; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for SB 1142 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Gordon	Kirkpatrick	Neal
Carlucci	Grant	Langley	Plummer
Childers, D.	Grizzle	Malchon	Rehm
Childers, W. D.	Hair	Mann	Stuart
Crawford	Henderson	Margolis	Thomas
Dunn	Hill	Maxwell	Thurman
Fox	Jenne	McPherson	Vogt
Frank	Jennings	Meek	Weinstein
Girardeau	Johnston	Myers	

Nays—None

**CS for SB 130**—A bill to be entitled An act relating to the Career Service Commission; amending s. 110.305(3), Florida Statutes; prohibiting the commission from hearing appeals of certain actions; providing for review of recovery of overpayments; providing an effective date.

—was read the second time by title.

Senator Johnston moved the following amendments which were adopted:

**Amendment 1**—On page 1, after line 30, insert a new section 2 and renumber subsequent section:

Section 2. Paragraphs (s) and (t) are added to subsection (2) of section 110.205, Florida Statutes, 1982 Supplement, to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided no position shall be exempted if the position reports to a position in the career service:

(s) All positions which require that the employee be a member of *The Florida Bar*.

(t) All positions which have as a requirement licensure pursuant to chapters 458, 459, or 460 including those positions which are occupied by employees who are exempted from licensure pursuant to s. 409.352.

**Amendment 2**—In title, on page 1, line 6, after the semicolon insert: adding s. 110.205(2), (s), (t), Florida Statutes, 1982 Supplement; providing for exemption of attorneys, physicians, osteopathic physicians, and chiropractors from the career service system;

On motion by Senator Beard, by two-thirds vote CS for SB 130 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Barron	Gersten	Kirkpatrick	Neal
Beard	Girardeau	Langley	Plummer
Carlucci	Gordon	Malchon	Scott
Castor	Grant	Mann	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	

Nays—None

On motion by Senator Kirkpatrick, the rules were waived and the Senate reverted to—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 362 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Corrections, Probation & Parole and Representative Brantley—

**CS for HB 362**—A bill to be entitled An act relating to the certification and decertification of law enforcement and correctional officers; amending s. 943.10, Florida Statutes, 1982 Supplement; defining "part-time correctional officer"; reenacting s. 943.11(4), Florida Statutes, 1982 Supplement, relating to the Criminal Justice Standards and Training Commission; amending s. 943.12, Florida Statutes, 1982 Supplement; granting the Department of Law Enforcement the power to establish standards for employment and training of part-time correctional officers; amending s. 943.14(1), Florida Statutes, 1982 Supplement, and reenacting subsection (2); requiring the Criminal Justice Standards and Training Commission to establish and maintain training programs for part-time correctional officers; adding s. 943.145(3)(d), Florida Statutes, 1982 Supplement, and reenacting subsections (1), (4), and (7); providing that suspension or revocation of certification as a law enforcement officer or correctional officer is grounds for suspension or revocation of concurrent certification; amending s. 943.22(3), Florida Statutes; providing continued incentive benefits upon reassignment for officers holding concurrent certification; amending s. 943.23, Florida Statutes; providing for notification of the commission of appointment or termination of a part-time correctional officer; providing for concurrent certification of officers; amending s. 943.25(3), (4), (7), (8)(a), (10), and (13), Florida Statutes; providing for the assessment of training costs for part-time correctional officers; requiring the commission to develop a plan for training programs and training center enhancements for training part-time correctional officers; delaying the merger of certain funds into the Criminal Justice Training Trust Fund; providing an effective date.

—which was read the first time by title and referred to the Committee on Judiciary-Civil.

On motions by Senator Kirkpatrick, by two-thirds vote CS for HB 362 was withdrawn from the Committee on Judiciary-Civil and by two-thirds vote placed on the special order calendar.

#### SPECIAL ORDER, continued

On motion by Senator Kirkpatrick, CS for HB 362, a companion measure, was substituted for SB 288 and by two-thirds vote read the second time by title.

Senator Fox moved the following amendments which were adopted:

**Amendment 1**—On page 17, between lines 19 and 20, insert:

Section 9. Section 943.14, Florida Statutes, 1982 Supplement, is amended to read:

943.14 Criminal justice training programs; private criminal justice training schools; certificates and diplomas; exemptions; injunction proceedings.—

(1) The commission shall establish and maintain specifically designed training programs for the various criminal justice disciplines for the purpose of providing basic employment certification, career development, and specialized training for law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, and support personnel. The training programs established shall be administered by such agencies and institutions as the commission approves in conformance with such curricula as the commission may approve and certify.

(2) The commission shall issue a certificate of compliance to any person satisfactorily complying with the specifically designed training programs established in subsection (1) and the qualifications for employment in s. 943.13, and no person shall be permanently employed or appointed as a law enforcement or correctional officer by any employing agency until the person has obtained such certificate of compliance. Eligible persons whose fingerprints have not been returned from the Federal Bureau of Investigation and who have satisfactorily complied with the remaining requirements herein shall be temporarily certified in compliance. The temporary certification shall expire at the end of 1 calendar year from the date of its approval or upon return of the fingerprints if there is a record indicated which, if known, would preclude certification, whichever occurs first. No person employed or appointed as a correctional officer shall become a permanent employee until the provisions of subsection (1) and this subsection have been complied with. Certificates of compliance issued under the provisions of subsection (1) and this subsection shall not be interchangeable between the respective criminal justice disciplines. Each certified law enforcement officer shall be issued a standardized identification card by the commission, signed by the executive director and the head of the employing agency, *however no such identification card shall be issued after July 1, 1983*. Facsimile signatures are authorized. This card shall be the property of the employing agency and shall be returned to the employing agency upon the termination, resignation, or decertification of such officer *or on July 1, 1983, whichever is earlier*. The employing agency shall be responsible for all costs in connection with the issuance of these cards.

(a) The commission may issue a temporary employment authorization to a *natural person* ~~an individual~~ meeting the qualifications for employment in s. 943.13, pending basic certification under this subsection, upon submission of evidence from an employing agency that a critical need exists and *such person* ~~that the individual~~ is enrolled in an approved training program, or will be enrolled in the next approved training program available in the geographic area, or that no assigned state training program for state officers is available within a reasonable time as determined by the commission. Any person issued a temporary employment authorization as a law enforcement or correctional officer pending basic certification under this subsection must enroll in the first training program offered in the geographic area, or assigned state training program for a state officer offered as determined by the commission, subsequent to his employment.

(b) In no case shall a temporary employment authorization be in force for more than 180 consecutive days, and such temporary employment authorization shall not be renewable or transferable. However, an applicant who has been granted a temporary employment authorization and who has enrolled in the first training program offered in the geographic area or been assigned a state training program as determined by the commission subsequent to his employment may continue in that capacity until:

1. He successfully graduates;
2. He fails the course;
3. He withdraws from the course; or
4. The agency terminates his employment.

(3) The commission may, upon written request from an employing agency, evaluate the criminal justice training, education, and work experience of a person to determine if such training, education, and experience are equivalent to the specific course of training currently required for basic employment certification. *The commission shall establish an examination in each discipline to make the determination of equivalency of training. The commission shall establish by rule procedures for administering and evaluating the examination. All costs associated with the development of each examination shall be funded from the Trust Fund for Grants Matching. The commission may charge an examination fee to be collected by the Department of Law Enforcement, Division of*

*Criminal Justice Standards and Training, and deposited in the Comparative Compliance Assessment Trust Fund. The funds shall be used to pay any costs related to the comparative compliance test. If a person successfully completes the examination ~~an equivalency is found~~, the commission shall issue a basic employment certificate to the person, provided all other requirements of this chapter are satisfied. If a person does not successfully complete the examination, he must successfully complete a basic recruit course at an approved training center in order to obtain certification; except that at its discretion ~~an equivalency is not found~~, the commission may prescribe additional or supplemental training for a person who successfully completes a portion of the examination and, upon successful completion and compliance with other provisions of this chapter, issue a basic employment certificate to the person.*

(4) *Each private criminal justice training school shall obtain from the commission a certificate of compliance with rules of the commission, signed by the chairman of the commission. All training or educational subjects which are taught, instructed, or used in any criminal justice training schools or taught, instructed, or used in any private criminal justice training school shall first be approved in writing by the commission.*

(5) *Any certificates or diplomas issued by any criminal justice training schools or any private criminal justice training school which relate to completion, graduation, or attendance in criminal justice training or educational subjects, or related matter, shall be approved by the commission.*

(6) *All personnel used as instructors, teachers, or evaluators by any of the aforementioned schools, corporations, or institutions shall be certified in accordance with procedures approved by the commission by rule.*

(7) *All records of any private criminal justice training school relating to training and all financial and personnel records of the school shall be made available to the department or the commission upon request.*

(8) *No private criminal justice training school may include within its name the words "Commission," "Bureau," or "Division" together with the words "Florida," "State," the name of any county or municipality, or any misleading derivative thereof which might be construed to represent a government agency or an entity authorized by a government agency.*

(9) *No person registered by the Department of State pursuant to the Law Enforcement and Emergency Service Solicitation of Funds Act, ss. 496.20-496.34, shall operate a private criminal justice training school.*

(10)(7) *Criminal justice training schools, courses which are accredited and certified by the Department of Education in accordance with the rules of the commission, and any schools authorized specifically by the Department of State to train those persons to be qualified pursuant to s. 493.566(5) are exempt from the requirements of subsections (4), (5), and (6), (7), (8), and (9).*

(11)(8) *Criminal justice sciences or administration courses or subjects which are a part of the curriculum of any accredited college, university, or community college of this state, and all full-time instructors of such institutions, shall be exempt from the provisions of subsections (4), (5), and (6), (7), (8), and (9).*

(12) *Any person who violates subsections (4), (5), (6), (7), (8), or (9), or any rule adopted pursuant thereto shall be subject to a fine of \$10,000 for each violation, which fines shall be paid into the Law Enforcement Training Trust Fund. In addition, any private criminal justice training school which fails to comply with any order of the commission with respect to certification shall be subject to an administrative fine of \$1,000, which fine shall be paid into the Law Enforcement Training Trust Fund. The commission may obtain a lien against such school for the payment of any fine imposed under this section.*

(13)(9) *At the request of the commission and upon approval of the head of the department, the Department of Legal Affairs shall apply directly to the circuit court of any county wherein any such school conducts or carries on any business or where any unlawful practice contrary to this section is being committed for an injunction restraining any such school from operating contrary to this section. The court, in its discretion, may grant a temporary injunction restraining the operation of any such school contrary to this section, pending the outcome of said cause, and, upon final hearing, shall permanently enjoin such unlawful operations as are contrary to this section. The department and the Department of Legal Affairs shall not be required to give any bond in any proceedings hereunder.*

(14)(10)(a) *The commission shall develop and promulgate by rule minimum training standards for all law enforcement officers who operate radar speed-measuring devices. Such training standards shall include a minimum of 40 hours' training, divided between classroom training and on-the-road training, with emphasis on recognition of potential errors of such speed-measuring devices. The primary instructor for the training program shall not be connected with any radar manufacturer or manufacturer's representative.*

(b) *After August 31, 1981, no law enforcement officer shall be permitted to issue a radar-based speeding citation unless the officer has successfully completed the training program established under paragraph (a).*

Section 10. Paragraph (f) is added to subsection (2) and paragraph (d) is added to subsection (3) of section 943.145, Florida Statutes, 1982 Supplement, and paragraphs (d) and (e) of subsection (2) of said section are amended, to read:

943.145 *Certification and decertification of law enforcement officers and correctional officers; grounds; investigations and reports; hearings; exceptions.—*

(2) *Grounds for denial of certification or refusal to reactivate certification shall consist of:*

(d) *Failure of the applicant to comply with application procedures established pursuant to subsection (1) and s. 943.14; or*

(e) *Falsification of or willful failure to disclose material, non-privileged information in any application to an employing agency or the commission; or-*

(f) *Bribery by the applicant or certificateholder in obtaining or endeavoring to obtain certification.*

(3) *Grounds for revocation or suspension of certification shall consist of:*

(d) *Bribery by the certificateholder in obtaining certification.*

(Renumber subsequent sections.)

**Amendment 2**—In title, on page 1, lines 1-31, and page 2, lines 1-12, strike everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; amending s. 943.10, Florida Statutes, 1982 Supplement; defining "part-time correctional officer"; reenacting s. 943.11(4), Florida Statutes, 1982 Supplement, relating to the Criminal Justice Standards and Training Commission; amending s. 943.12, Florida Statutes, 1982 Supplement; granting the Department of Law Enforcement the power to establish standards for employment and training of part-time correctional officers; amending s. 943.14(1), Florida Statutes, 1982 Supplement, and reenacting subsection (2); requiring the Criminal Justice Standards and Training Commission to establish and maintain training programs for part-time correctional officers; adding s. 943.145(3)(d), Florida Statutes, 1982 Supplement, and reenacting subsections (1), (4), and (7); providing that suspension or revocation of certification as a law enforcement officer or correctional officer is grounds for suspension or revocation of concurrent certification; amending s. 943.22(3), Florida Statutes; providing continued incentive benefits upon reassignment for officers holding concurrent certification; amending s. 943.23, Florida Statutes; providing for notification of the commission of appointment or termination of a part-time correctional officer; providing for concurrent certification of officers; amending s. 943.25(3), (4), (7), (8)(a), (10), and (13), Florida Statutes; providing for the assessment of training costs for part-time correctional officers; requiring the commission to develop a plan for training programs and training center enhancements for training part-time correctional officers; delaying the merger of certain funds into the Criminal Justice Training Trust Fund; amending s. 943.14, Florida Statutes, 1982 Supplement, discontinuing issuance of identification cards to certified law enforcement officers; requiring return of issued identification cards; requiring certification of private criminal justice training schools; providing for access to certain records of such schools; restricting the names of such schools; prohibiting certain persons from operating such schools; providing fines for violations; adding paragraphs to s. 943.145(2) and (3), Florida Statutes, 1982 Supplement, and amending paragraphs (2)(d) and (e) thereof, adding grounds for denial, revocation, and suspension of certification of law enforcement officers and correctional officers; providing an effective date.

**Amendment 3**—In title, on page 2, line 11, after the semicolon insert: amending s. 943.14, Florida Statutes, 1982 Supplement, discontinuing issuance of identification cards to certified law enforcement officers; requiring return of issued identification cards; requiring the establishment of an examination to determine equivalency of training; providing for the costs of examination development; authorizing examination fees; requiring successful completion of an examination for certification for employment; requiring certification of private criminal justice training schools; providing for access to certain records of such schools; restricting the names of such schools; prohibiting certain persons from operating such schools; providing fines for violations; adding paragraphs to s. 943.145(2) and (3), Florida Statutes, 1982 Supplement, and amending paragraphs (2)(d) and (e) thereof, adding grounds for denial, revocation, and suspension of certification of law enforcement officers and correctional officers;

On motion by Senator Kirkpatrick, by two-thirds vote CS for HB 362 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Hill	Meek	Weinstein
Frank	Jennings	Myers	

Nays—None

SB 288 was laid on the table.

**CS for SB 1009**—A bill to be entitled An act relating to the judiciary; amending s. 26.031(5), Florida Statutes, 1982 Supplement; providing for an additional circuit judge for the fifth judicial circuit; providing an effective date.

—was read the second time by title.

On motion by Senator Scott, by two-thirds vote CS for SB 1009 was removed from the calendar and indefinitely postponed.

On motion by Senator Fox, the rules were waived and the Senate reverted to—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 329 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Judiciary and Representative Wallace—

**CS for HB 329**—A bill to be entitled An act relating to sovereign immunity; amending s. 768.28(6) and (11), Florida Statutes, and adding (15) to said section; specifying a notice period for contribution actions; providing a statute of limitations on actions for contribution; providing that agency notice and denial are conditions precedent to maintaining suit but are not elements of the cause of action; providing savings clauses; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Civil.

On motion by Senator Fox, by two-thirds vote CS for HB 329 was withdrawn from the Committee on Judiciary-Civil.

#### SPECIAL ORDER, continued

On motion by Senator Fox, by two-thirds vote CS for HB 329, a companion measure, was substituted for CS for SB 512. On motions by Senator Fox, by two-thirds vote CS for HB 329 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

Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Neal
Carlucci	Girardeau	Kirkpatrick	Plummer
Castor	Grant	Langley	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Mann	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein

Nays—None

CS for SB 512 was laid on the table.

Consideration of SB 22 was deferred.

#### The President presiding

The hour of 11:00 a.m. having arrived, the Senate proceeded to consideration of—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended and passed HB 60, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representatives Wetherell and Crotty—

**HB 60**—A bill to be entitled An act relating to education; creating the "Florida Community College Scholarship Program"; authorizing community college district boards of trustees to assess additional fees for the purpose of rendering financial aid to students; providing limitations; providing for the establishment of eligibility criteria; providing for placement of funds collected; providing an effective date.

**Amendment 1 to Senate Amendment 1**—On pages 1-4, strike the entire amendment, and insert:

Section 1. Subsection (11) is added to section 228.071, Florida Statutes, to read:

228.071 Community education.—

(11) **JOINT AGREEMENTS.**—District school boards and community college boards of trustees are authorized to submit joint grant applications, if an agreement between the boards is established. Such application shall be considered as a single grant application. For those grant applications approved for funding, the district school board is authorized to transfer all or part of such funds to the community college as specified in the contractual agreement.

Section 2. Paragraph (j) of subsection (10) of section 230.23, Florida Statutes, 1982 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(10) **FINANCE.**—Take steps to assure children adequate educational facilities through the financial procedure authorized in chapters 236 and 237 and as prescribed below:

(j) Purchasing regulations to be secured from Department of General Services.—Secure purchasing regulations and amendments and changes thereto from the Division of Purchasing of the Department of General Services and prior to any purchase have reported to it by its staff, and give consideration to the lowest price available to it under such regulations, provided a regulation applicable to the item or items being purchased has been adopted by the Division of Purchasing. The Division of Purchasing should meet with educational administrators to expand the inventory of standard items for common usage in all schools and higher education institutions. *The school board is authorized to provide for cooperative purchasing arrangements with other public or nonprofit educational agencies when the costs of such arrangements are borne by such other agencies.*

Section 3. Subsection (2) of section 230.321, Florida Statutes, 1982 Supplement, is amended to read:

230.321 Superintendents employed under Art. IX, State Constitution.—

(2) The school board of each of such districts shall enter into contracts of employment with the superintendent of schools and shall adopt rules and regulations relating to his appointment. *Any such contract may fix the duration of employment and the compensation therefor, and may contain any other terms and conditions the board may deem appropriate. In addition, the board may furnish to the superintendent the use of a motor vehicle or an allowance in lieu thereof. If any such vehicle is furnished, the board shall determine and fix the maximum nonschool use of the vehicle.*

Section 4. Paragraph (b) of subsection (4) of section 233.067, Florida Statutes, 1982 Supplement, is amended to read:

233.067 Comprehensive health education.—

(4) ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION PROGRAM.—

(b) The comprehensive health education program shall include the following:

1. Implementation of inservice education programs for teachers, administrators, and other persons. Inservice teacher education materials and student materials which are based upon individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts.

2. Instruction in nutrition education as a specific area of health education instruction. Nutrition education shall include, but not be limited to, sound nutritional practices, wise food selection, analysis of advertising claims about food, proper food preparation, and food storage procedures. The purpose of such nutrition education programs shall be to educate students in the overall area of nutrition education and significantly reduce health problems associated with poor or improper nutrition practices.

3. Reorientation and utilization of existing regional drug education resource centers for use as health education resource centers to assist the Department of Education in coordinating health education activities in the regions.

4. Design and development of programs for the selection and training of health education instructors from existing teaching staff and the orientation to teaching roles for persons employed in appropriate health fields and community volunteers.

5. *Demonstration in cardiopulmonary resuscitation, at least once each school year, for all students in grades 7 through 12. The district school board may provide demonstrations through the use of qualified persons, a suitable film, or other appropriate processes. When any student in grades 7 through 12 desires to receive instruction in cardiopulmonary resuscitation, the school shall, as a part of its comprehensive health program, make necessary arrangements to provide either individual or group instruction in cardiopulmonary resuscitation. To provide such instruction the school may use the services of any person qualified to give instructions in or administer cardiopulmonary resuscitation. Such persons may include, but shall not be limited to, local firemen, law enforcement officers, emergency medical technicians, or school teachers. The instruction may be given at a place other than a public school, if necessary.*

6. Development of training programs to allow the use of school food service personnel as resource persons.

Section 5. Section 240.350, Florida Statutes, is created to read:

240.350 Fees.—

(1) Unless specifically provided in the General Appropriations Act, the State Board of Education shall establish the average tuition fee required to generate the amount of revenue established annually in the General Appropriations Act. Each community college board of trustees may establish tuition fees which shall vary no more than 10 percent from this statewide average rounded to the nearest one-fourth dollar. For those community colleges which have a 1982-1983 tuition level of \$18 per college credit hour or below, the board of trustees may have until 1984-1985

to establish a tuition level within 10 percent of the statewide average. Out-of-state tuition shall be at least twice the amount of tuition for state residents.

(2) Each community college district board of trustees may establish separate activity fees, service fees, and scholarship fees.

(3) Community College Scholarship.—Each community college is authorized to collect for financial aid and student activities, up to but not to exceed 5 percent of the total student tuition or matriculation fees collected. However, if the amount generated by the 5 percent is less than \$50,000, the community college shall have the authority to transfer from the General Current Fund to the Scholarship Fund an amount equal to the difference between \$50,000 and the amount generated by the 5 percent of the total student tuition and matriculation fees. Up to \$50,000 of the fees collected may be used to assist students in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution. Use of the balance of these funds shall be limited to meeting financial need and recognizing academic merit.

(a) No community college exercising this option shall grant any fee waiver, except as otherwise required by law.

(b) Provisions in the General Appropriations Act to the contrary notwithstanding, in the allocation of funds under "Aid to Local Governments Community Colleges Program Fund," no deduction for actual student fees charged under the Florida Community College Scholarship Program by college by discipline per FTE shall be applied.

(c) Each community college shall establish and publish its own criteria for student eligibility for financial aid under the program.

(d) Any and all funds collected under the program shall be placed in the local college's Loan and Endowment Fund or Scholarship Fund, by whatever name known.

(e) No funds collected under the program shall be utilized for salaries or expended for direct or indirect administrative costs at the institution.

(f) The funds collected under the program shall be collected as a component part of the registration and tuition fees. Funds shall be expended for lawful purposes to benefit the student body in general. This shall include, but not be limited to, scholarship, student publications, student activities and grants to duly recognized student organizations, the membership of which is open to all students at the community college without regard to race, sex, or religion.

Section 6. Section 240.377, Florida Statutes, is amended to read:

240.377 Promotion and public relations, funding.—Each community college and district school board is authorized to budget and use a portion of funds accruing from auxiliary enterprises and undesignated gifts for promotion and public relations as prescribed by regulations of the state board. Such funds may be used to provide expenditures for hospitality of business guests at the college or district school board or elsewhere. However, such hospitality expenses shall not exceed the amount authorized for such contingency fund as prescribed by rules of the state board.

Section 7. Subsections (3) and (4) of section 240.533, Florida Statutes, 1982 Supplement, are amended to read:

240.533 Women's intercollegiate athletics.—

(3) COUNCIL.—

(a) There is created within the Board of Regents the Council on Equity in Athletics. The council shall meet at least once, but not more than four times, annually ~~and shall receive reimbursement for travel and per diem as provided in s. 112.061.~~ The council shall be composed of:

1. One member of the board, appointed by the chairman of the board for a 2-year term.

2. The Chancellor of the State University System or a his designee, who shall serve as chairman of the council.

3. The President of the State Council of Student Body Presidents or a his designee.

4. The Equal Employment Opportunity officer for the Department of Education or a his designee.

5. The director of the Office of Equal Opportunity Programs for the Board of Regents.

6.5. The Florida Association for Intercollegiate Athletics for Women Title IX legislative representative, appointed by the president of that association.

7.6. One member from each institution in the State University System having an intercollegiate athletic program who shall be either the men's athletic director or the ~~and one~~ women's athletic director or primary women's athletic administrator of said institution, ~~or coordinator of women's sports, within the NCAA/AIAW institutions, in the State University System, to be selected and serve from among themselves for a 2-year term; in accordance with the following:~~

a. Of those members representing institutions in the State University System which are Division I members of the National Collegiate Athletic Association (NCAA), at least one member shall be a men's athletic director and at least one member shall be a women's athletic director or primary women's athletic administrator.

b. No fewer than five of said members shall be either women's athletic directors or primary women's athletic coordinators.

c. Members shall be nominated by their respective university presidents and appointed by the Chancellor of the State University System.

d. In the event of a vacancy occurring prior to the expiration of a member's term, such vacancy shall be filled by the Chancellor of the State University System.

~~7. One men's athletic director and one women's athletic director, or coordinator of women's sports, within the NAIA/AIAW institutions in the State University System, to be selected from among themselves for a 2-year term.~~

(b) The council shall have as its primary responsibilities:

1. The determination of available resources for women's intercollegiate athletics at each institution within the State University System.

2. The determination of required resources for women's intercollegiate athletics at each institution within the State University System in order to comply with the provisions herein.

3. The development of a state formula for the request and allocation of funds based on the Title IX regulations, which shall assure equity for funding women's intercollegiate athletics at each institution within the State University System.

4. The advisement of the ~~board commission~~ of the required appropriation and allocation to assure equity as provided herein.

(4) FUNDING.—

(Substantial rewording of paragraph (a). See s. 240.533(4)(a), F.S., 1982 Supp., for present text.)

(a) A portion of the separate athletic fee established under s. 240.235(2) shall be designated for women's intercollegiate athletics to aid in the assurance of equal opportunity for female athletes. Such portion shall include the 30-cent-per-credit-hour portion of the student activity and service fee and the per-credit-hour equivalent of the 1978-1979 level of general support from the student activity and service fee, and the president shall assure that neither the amount nor the percentage share of funding to women's intercollegiate athletics shall decrease.

(b) The level of funding and percentage share of an institution's support for women's intercollegiate athletics attained in by the 1980-1981 fiscal year appropriation shall be the minimum level and percentage maintained by each institution, except as the council shall otherwise direct for the purpose of assuring equity.

(c) In addition to the ~~above~~ amount specified in paragraphs (a) and (b), an amount equal to the sales taxes which would be collected and remitted to the state if the exemption provided in s. 212.04(2)(b) did not apply shall be utilized by each institution to support women's athletics.

Section 8. (1) There is hereby created a Task Force on Vocational Education. The task force shall be composed of three members of the Senate, appointed by the President of the Senate, three members of the House of Representatives, appointed by the Speaker of the House, the secretary, or designee, of the Department of Commerce, the secretary, or

designee, of the Department of Labor and Employment Security, one member of a regional coordinating council, appointed by the Commissioner of Education, one member of the Postsecondary Education Planning Commission, appointed by the chairman of the commission, four citizens of the State of Florida who are employed by the private sector, appointed by the Governor, and the Commissioner of Education who shall serve as ex officio member.

(2) The task force shall meet initially upon the call of the Speaker of the House of Representatives. The task force shall, at its first meeting, organize by electing a chairman and such other officers as it deems necessary.

(3) Members of the task force shall be entitled to reimbursement for per diem and travel expenses incurred in carrying out their responsibilities under this act according to the provisions of s. 112.061, Florida Statutes, and are authorized to use the services of the staffs of the House of Representatives and Senate in carrying out their responsibilities.

(4) The objective of the task force shall be to improve the quality and efficiency of vocational education in Florida. The areas which the task force shall address shall include, but not be limited to, the following:

(a) Governance and organization, including:

1. Operations, responsibilities, and consideration of the name of the Division of Vocational Education.

2. The relationship between the Division of Vocational Education and other state agencies dealing in economic development and employment.

3. Regional coordinating councils.

(b) The division of responsibilities between school districts, public community colleges, and private technical schools.

(c) Coordination between vocational education programs, Job Training Partnership Act programs, private industry councils, and industry services councils.

(d) The relationship between vocational education, adult education, and community education or instruction.

(e) The relationship between vocational education and economic development and unemployment.

(f) Finance, including funding methodologies.

(g) Fees, including:

1. The relationship between fees and costs.

2. The use of fees.

3. Financial aid.

4. Fee waivers.

(h) Teacher enhancement, training, and certification.

(i) Program and student standards.

(j) Student articulation.

(k) Implementation of laws affecting vocational education adopted by the 1983 Legislature.

(5) The task force shall prepare and submit a report and recommendations to the Governor and Legislature prior to the opening of the 1984 regular session of the Legislature.

Section 2. There is hereby appropriated an amount sufficient to carry out the purposes of this act.

Section 9. This act shall take effect July 1, 1983.

**Amendment 1 to Senate Amendment 2**—On page 1, in the title, strike the entire amendment and insert:

A bill to be entitled An act relating to education; adding subsection (11) to s. 228.071, Florida Statutes; authorizing joint applications for community education grants by community college boards of trustees and district school boards; authorizing transfer of funds by district school boards to community colleges; amending s. 230.23(10)(j), Florida Statutes, 1982 Supplement; authorizing cooperative purchasing arrangements with public or nonprofit educational agencies when costs of the arrange-

ments are borne by such agencies; amending s. 230.321(2), Florida Statutes, 1982 Supplement; authorizing school districts which employ a superintendent of schools to furnish the superintendent with a motor vehicle or an allowance; amending s. 233.067(4)(b), Florida Statutes, 1982 Supplement; requiring demonstrations of and instruction in cardiopulmonary resuscitation for certain students; creating s. 240.350, Florida Statutes, relating to fees; amending s. 240.377, Florida Statutes, authorizing boards to expend a portion of funds accruing from auxiliary enterprises and undesignated gifts for promotion and public relations under state board regulations; amending s. 240.533(3) and (4), Florida Statutes, 1982 Supplement, relating to women's intercollegiate athletics; modifying membership of the Council on Equity in Athletics; updating and conforming funding provisions to the act; creating a Task Force on Vocational Education; providing for membership; providing for compensation; providing objectives of the task force; providing for a report and recommendations to the Governor and the Legislature; providing an appropriation; providing an effective date.

Senators Maxwell and Kirkpatrick offered the following amendment which was moved by Senator Maxwell and adopted:

**Amendment 1 to House Amendment 1**—On page 2, between lines 3 and 4, insert: A new section 3

Section 3. The Board of Regents shall adopt rules requiring that all faculty members in the State University System, other than those persons who teach courses that are conducted primarily in a foreign language, be proficient in the oral use of English, as determined by a satisfactory grade on the "Test of Spoken English" of the Educational Testing Service or a similar test approved by the Board.

(Renumber subsequent sections.)

Senator Maxwell moved the following amendments which were adopted:

**Amendment 2 to House Amendment 1**—On page 4, strike all of lines 12-20 and insert: establish the average matriculation, tuition, and non-credit fees required to generate the amount of revenue established annually in the General Appropriations Act. Each community college board of trustees may establish matriculation, tuition and non-credit fees which shall vary no more than 10 percent from this statewide average rounded to the nearest one-fourth dollar. For those community colleges which have a 1982-83 matriculation level of \$17 per college credit or below and for non-credit courses, the boards of trustees may have until 1984-85 to establish a fee level within 10 percent of the statewide average.

**Amendment 3 to House Amendment 1**—On page 4, line 24, strike "activity fees, service fees" and insert: activity and service fees

**Amendment 4 to House Amendment 1**—On page 4, lines 27 and 28, strike "for financial aid and student activities" and insert: an additional amount for financial aid and student activities

**Amendment 5 to House Amendment 1**—On page 5, line 12, strike "exercising this option"

**Amendment 6 to House Amendment 1**—On page 5, lines 14 and 15, strike "Provisions in the General Appropriations Act to the contrary notwithstanding,

**Amendment 7 to House Amendment 1**—On page 5, lines 18 and 19, strike "by college by discipline per FTE"

**Amendment 8 to House Amendment 1**—On page 5, line 18, after "Program" insert: and for activity and service fees

**Amendment 9 to House Amendment 1**—On pages 9, 10 and 11, strike all of section 8 and insert:

Section 8. The provisions of section 236.081(4)(b), Florida Statutes, shall apply only to local required effort levied for fiscal year 1984-85 and each year thereafter.

Senator Frank moved the following amendment which was adopted:

**Amendment 10 to House Amendment 1**—Insert: Section 9

Section 9. Subsection (4) is added to section 240.319, Florida Statutes, 1982 Supplement, to read:

240.319 Community college district boards of trustees; duties and powers.—

(4) Each community college district board of trustees shall, no later than July 1, 1984, adopt, by rule, procedures governing the employment and dismissal of the community college president. Such procedures shall be designed to provide for expeditious decisionmaking, while safeguarding the interest of the community college president, applicants for the position of community college president, and the students and faculty of the community college. Such rule shall be incorporated into the contract for employment.

(Renumber subsequent section.)

Senator Maxwell moved the following amendment which was adopted:

**Amendment 1 to House Amendment 2**—In title, on page 2, lines 7 and 8, strike "creating a Task Force on Vocational Education" and insert: delaying application of ratio studies to required local effort

Senators Maxwell and Kirkpatrick offered the following amendment which was moved by Senator Maxwell and adopted:

**Amendment 2 to House Amendment 2**—In title, on page 1, line 14, after the semicolon (;) insert: requiring the Board of Regents to test faculty on fluency in English;

On motions by Senator Maxwell, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

HB 60 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Johnston	Plummer
Barron	Girardeau	Kirkpatrick	Scott
Beard	Gordon	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Mann	Thurman
Childers, D.	Hair	Margolis	Vogt
Childers, W. D.	Henderson	Maxwell	Weinstein
Crawford	Hill	McPherson	
Fox	Jenne	Myers	
Frank	Jennings	Neal	

Nays—None

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended and passed HB 1169, as amended, and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**HB 1169**—A bill to be entitled An act relating to the investment of state funds; amending s. 215.44(2), Florida Statutes, and adding a subsection; providing for legal representation of the State Board of Administration by the Department of Legal Affairs, and providing for transition of legal service from private attorneys to the department; creating a 6-member advisory council to advise the State Board of Administration on investment matters; providing for membership and meetings; providing travel expense reimbursement for members; providing for review and repeal in accordance with the Sundown Act; amending s. 215.47, Florida Statutes, 1982 Supplement; establishing the "prudent expert rule" as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System, and eliminating certain limitations on such investments; requiring the Board to adopt and maintain an investment policy; authorizing the use of outside investment advisors and managers; providing intent; requiring annual independent audits; requiring annual performance reports; amending ss. 197.0168(2)(b) and 242.331(5)(e), Florida Statutes, and s. 218.407(1), Florida Statutes, 1982 Supplement, relating to purchase of deferred payment tax certificates, investments by the Board of Trustees for the Florida School for the Deaf and the Blind, and investments by local governments, conforming language; providing an effective date.

**House Amendment 1 to Senate Amendment 1**—On page 4, lines 1-2 of Senate Amendment 1, strike all of said lines, and insert:

Section 3. Section 215.47, Florida Statutes, is amended to read:

215.47 Investments; ~~authorized securities.~~—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(1) Without limitation in:

(a) Bonds, notes, or other obligations of the United States or those guaranteed by the United States or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof.

(b) State bonds pledging the full faith and credit of the state and revenue bonds additionally secured by the full faith and credit of the state.

(c) Bonds of the several counties or districts in the state containing a pledge of the full faith and credit of the county or district involved.

(d) Bonds issued or administered by the State Board of Administration secured solely by a pledge of all or part of the 2-cent second gas tax accruing under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended, or of s. 9, Art. XII of the 1968 revised State Constitution.

(e) Bonds issued by the State Board of Education pursuant to ss. 18 and 19, Art. XII of the State Constitution of 1885, as amended, or to s. 9, Art. XII of the 1968 revised State Constitution, as amended.

(f) Bonds issued by the Florida Outdoor Recreational Development Council pursuant to s. 17, Art. IX of the State Constitution of 1885, as amended.

(g) Bonds issued by the Florida State Improvement Commission, Florida Development Commission, or Division of Bond Finance of the Department of General Services.

(h) Savings accounts in, or certificates of deposit of, any bank incorporated under the laws of this state or any national bank organized under the laws of the United States doing business and situated in this state, or *savings accounts in, or certificates of deposits of, any savings association incorporated under the laws of this state or federal savings and loan association organized under the laws of the United States doing business and situated in this state*, to the extent that such savings accounts are insured by the Federal Government or an agency thereof, and if the certificates of deposit are secured in the manner prescribed in chapter 18.

(i) Obligations of the Federal Farm Credit Banks and obligations of the Federal Home Loan Bank and its district banks.

(j) Obligations of the Federal Home Loan Mortgage Corporation, including participation certificates.

(k) Obligations guaranteed by the Government National Mortgage Association.

(l) Commercial paper of prime quality of the highest letter and numerical rating as provided for by at least one nationally recognized rating service.

(m) Time drafts or bills of exchange drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are accepted by a member bank of the Federal Reserve System having total deposits of not less than \$400 million.

(2) *For investments purchased for the Florida Retirement System, the board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Florida Retirement System, the board shall discharge its duties for the exclusive purpose of providing benefits to participants of the Florida Retirement System and their beneficiaries and defraying reasonable expenses of administering the plan; and in so doing shall use the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Within the limitations of the foregoing standard, the board is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures*

*and other corporate obligations, and stocks, preferred or common, and may retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. Not more than 25 percent of any fund in:*

~~(a) Bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of this state, if such obligations are rated by at least two nationally recognized rating services in any one of the three highest classifications approved by the Comptroller of the Currency for the investment of the funds of national banks. However, if only one nationally recognized rating service shall rate such obligations, then such rating service must have rated such obligations in any one of the two highest classifications heretofore mentioned.~~

~~(b) Savings accounts of any savings and loan association or bank incorporated under the laws of this state or in savings accounts of any federal savings and loan association or national bank domiciled in this state, to the extent that such investments are insured by the Federal Government or any agency thereof, and additional sums not to exceed 15 percent of the net worth of the institution, the amount to be determined by the Governor, Comptroller, and Treasurer, as the State Board of Administration.~~

~~(c) Notes secured by first mortgages on Florida real property, insured or guaranteed by the Federal Housing Administration or the Veterans Administration.~~

~~(d) Interest-bearing obligations of the International Bank for Reconstruction and Development or the Inter-American Development Bank.~~

~~(e) Deferred payment tax certificates offered for sale by a county pursuant to s. 197.0168(2)(b).~~

~~(f) Investments collateralized by first mortgages covering single-family Florida residences, provided such mortgages do not exceed \$60,000, do not exceed 80 percent of value, are not delinquent, and are originated by a lender regulated by the state or Federal Government and the aggregate of the collateral furnished is at least 150 percent of the aggregate investment under this subsection. The mortgages used for collateral shall be segregated by the lending institution so that said segregation may be confirmed by independent audit. In the event any such mortgage used as collateral becomes more than 3 months delinquent, the lender shall immediately substitute therefor a mortgage of equal or greater value.~~

~~(g) Mortgage pass-through certificates, meaning certificates evidencing ownership of an undivided interest in pools of conventional mortgages on real property which is improved by a building or buildings used for residential purposes for one to four families when:~~

~~1. Such real property is located in this state;~~

~~2. Such mortgages are originated by one or more banks or savings and loan associations organized under the laws of this state, by national banks or federal savings and loan associations having their principal place of business in this state, or by a lender that is approved by the Secretary of Housing and Urban Development for the participation in any mortgage insurance program under the National Housing Act and has its principal place of business in this state, or by any combination thereof; and~~

~~3. Such mortgages are transferred or assigned to a corporate trustee acting for the benefit of the holders of such certificates.~~

~~(h) Obligations of the Federal National Mortgage Association.~~

~~(i) Group annuity contracts of the pension investment type with insurers licensed to do business in this state, except that amounts invested by the board with any one insurer shall not exceed 3 percent of its assets.~~

~~(j) Certain interests in real and related personal property, including mortgages and related instruments on commercial or industrial real property, with provisions for equity or income participation or with provisions for convertibility to equity ownership; and interests in collective investment funds. Associated expenditures for acquisition and operation of assets purchased under this provision shall be included as a part of the cost of the investment.~~

~~1. The title to real property acquired under this paragraph shall be vested in the name of the respective fund.~~

2. ~~For purposes of taxation of property owned by any fund, the provisions of s. 196.199(2)(b) shall not apply.~~

3. ~~Real property acquired under the provisions of this paragraph shall not be considered state lands or public lands and property as defined in chapter 253, and the provisions of that chapter shall not apply to such real property.~~

(3) ~~The board shall adopt and maintain an investment policy pursuant to chapter 120. Not more than 60 percent of any fund in common stock, preferred stock, and interest-bearing obligations of a corporation having an option to convert into common stock, provided:~~

(a) ~~The corporation is organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia; or~~

(b) ~~The corporation is listed on any one or more of the recognized national stock exchanges in the United States and conforms with the periodic reporting requirements under the Securities Exchange Act of 1934.~~

(c) ~~Not more than 40 percent of the fund may be in internally managed common stock.~~

~~The board shall not invest more than 10 percent of the equity assets of any fund in the common stock, preferred stock, and interest-bearing obligations having an option to convert into common stock, of any one issuing corporation; and the board shall not invest more than 3 percent of the equity assets of any fund in such securities of any one issuing corporation except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, at least as broad as the Standard and Poor's Composite Index of 500 Companies, or except upon a specific finding by the board that such higher percentage is in the best interest of the fund. The board may only sell listed options to reduce investment risk, to improve cash flow, or to provide alternative means for the purchase and sale of underlying investment securities. Reversing transactions may be made to close out existing option positions.~~

(4) ~~Not more than 80 percent of any fund, in interest-bearing obligations with a fixed maturity of any corporation within the United States, if such obligations are rated by at least two nationally recognized rating services in any one of the three highest classifications approved by the Comptroller of the Currency for the investment of the funds of national banks. However, if only one nationally recognized rating service shall rate such obligations, then such rating service must have rated such obligations in any one of the two highest classifications heretofore mentioned.~~

(5) ~~For the purpose of determining the above investment limitations, the value of bonds shall be the par value thereof, and the value of evidences of ownership and interest-bearing obligations having an option to convert to ownership shall be the cost thereof.~~

(4)(6) Investments in any securities authorized by this section may be under repurchase agreements or reverse repurchase agreements.

(5)(7) Investments made by the State Board of Administration shall be designed to maximize the financial return to the fund consistent with the risks incumbent in each investment and shall be designed to preserve an appropriate diversification of the portfolio.

(6) *It is the intent of the Legislature that the investment authority granted in subsections (2) and (4) of this section be broadly interpreted to include current business and investment practices related to the investment activities of the board.*

(7)(8) In exercising investment authority pursuant to this section, the board may retain investment advisors or managers, or both, external to inhouse staff, to assist the board in carrying out the power specified in s. 215.44(2).

Section 4. Paragraph (b) of subsection (2) of section 197.0168, Florida Statutes, is amended to read:

197.0168 Deferred payment tax certificates.—

(2) If there remain unsold certificates following the sale of deferred payment tax certificates in accordance with the procedure set forth in s. 197.116, the county shall:

(b) Offer the unsold certificates for purchase to the State Board of Administration. Upon such offer to the State Board of Administration, the board shall purchase said certificates; however, not more than 10 percent of any fund shall be invested in such certificates as specified in s. 215.47(2)(e).

Section 5. Subsection (1) of section 218.407, Florida Statutes, is amended to read:

218.407 Local government investment authority.—

(1) Upon determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, a resolution by the governing body shall be filed with the State Board of Administration authorizing investment of its surplus funds in the trust fund established by this part and other investments authorized by s. 215.47(1) and (5) (6). The resolution shall name the local government official, who may be the chief financial or administrative officer of the local government, responsible for deposit and withdrawal of such funds and shall state the approximate cash-flow requirements of the local government for the surplus funds to be invested.

Section 6. Paragraph (e) of subsection (5) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(5)

(e) The board of trustees may invest such moneys in *such investments as may be authorized for trust funds securities enumerated* under s. 215.47.

Section 7. Subsection (5) of section 215.44, Florida Statutes, is repealed on October 1, 1992, and the Investment Advisory Council shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 8. Sections 1, 2 and 7 of this act shall take effect upon becoming a law, and Sections 3 through 6 shall take effect October 1, 1984.

**House Amendment 3 to Senate Amendment 1**—On page 2, line 15, before the "Section 2." insert: (8) *The Department of Legal Affairs shall be responsible for providing all legal services required by the board; provided, however, that upon the request of the board, the department may contract with other counsel for the provision of any specialized or technical services required by the board.*

**House Amendment 4 to Senate Amendment 1**—On page 1, line 12, strike "and (7)" and insert "(7), and (8)"

**House Amendment 2 to Senate Amendment 2**—In title, on page 1, line 27 of Senate amendment 2, insert before the word "providing": amending s. 215.47, Florida Statutes; establishing, effective October 1, 1984, the "prudent expert rule" as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System, and eliminating certain limitations on such investments; requiring the Board to adopt and maintain an investment policy; amending ss. 197.0168(2)(b), 218.407(1), and 242.331(5)(e), Florida Statutes, relating to purchase of deferred payment tax certificates, investments by the Board of Trustees for the Florida School for the Deaf and the Blind, and investments by local governments, conforming language effective October 1, 1984; providing for review and repeal of the advisory council in accordance with the Sundown Act;

**House Amendment 5 to Senate Amendment 2**—In title, on page 1, line 14, insert before "Florida": and (8) and, on line 20, insert after "audits;": providing for legal counsel;

On motions by Senator Maxwell, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

*The Honorable Curtis Peterson, President*

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

**CS for SB 1065**—A bill to be entitled An act relating to insurance; amending s. 20.13(2), Florida Statutes; creating the Division of Rehabilitation and Liquidation of the Department of Insurance; amending s. 624.155(2), Florida Statutes, 1982 Supplement; providing for notice in

advance of civil action; adding s. 624.404(8), Florida Statutes, 1982 Supplement; prohibiting authorization of certain insurers; amending s. 624.424(1), Florida Statutes, 1982 Supplement; providing for annual statement; amending s. 624.425(3), (5), Florida Statutes, 1982 Supplement; providing for power of attorney; providing exception; amending s. 624.428(3), Florida Statutes, 1982 Supplement; providing exception to the licensed agent law; amending s. 624.501, Florida Statutes, 1982 Supplement; providing fees; amending s. 626.731(1)(b), Florida Statutes, 1982 Supplement; providing qualifications for licensure as a general lines agent; amending s. 627.331(4), Florida Statutes, 1982 Supplement; requiring filing of underwriting rules and rates; amending s. 627.4145(1), (6), Florida Statutes, 1982 Supplement; providing for readable language in policies; amending s. 627.461, Florida Statutes, 1982 Supplement; deleting reference to interest; creating s. 627.4615, Florida Statutes; specifying interest payable on death claims; amending s. 627.7264(1), Florida Statutes, 1982 Supplement; requiring disclosure of certain information; amending s. 627.848(1), Florida Statutes, 1982 Supplement; providing for mailing of notice of cancellation; amending s. 627.743, Florida Statutes, as created by chapter 82-243, Laws of Florida, relating to payment of third-party claims; amending s. 627.914(5), Florida Statutes, 1982 Supplement; providing for reports by workers' compensation insurers; amending s. 634.121(2), Florida Statutes, 1982 Supplement; providing for the filing of forms; amending s. 634.1216, Florida Statutes, 1982 Supplement; providing for rating filings; providing an unearned premium reserve account; amending s. 625.012(11), Florida Statutes, 1982 Supplement; providing for the inclusion of computer operating software equipment; amending s. 624.604, Florida Statutes, 1982 Supplement; providing a new definition for "property insurance"; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

**Amendment 1**—In title, on page 1, line 7, after the word "for" insert: *written*

**Amendment 2**—On page 3, line 12, after the word "given" insert: *written*

**Amendment 3**—On page 4, between lines 9 and 10 insert:

Section 4. Subsection (4) of section 624.408, Florida Statutes, 1982 Supplement, is amended to read:

624.408 Special surplus requirements.—

(4) Beginning with calendar year 1983, any insurer which does not meet the requirements of s. 624.407 and have surplus of \$250,000 as required by this section shall increase its surplus as to policyholders so that at a rate of at least \$70,000 per year until its surplus as to policyholders equals at least \$750,000 as of December 31, 1986; and the insurer shall thereafter maintain such surplus at \$750,000. Such an insurer shall maintain at least the minimum capital required by law at the time it was authorized to do business and the amount of surplus in excess of its capital as shown on its financial statement as of December 31, 1982.

(Renumber subsequent sections.)

**Amendment 4**—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 624.408(4), Florida Statutes, 1982 Supplement; changing the special surplus requirements for insurers;

**Amendment 5**—On page 12, between lines 14 and 15 insert:

Section 10. Section 627.4035, Florida Statutes, 1982 Supplement, is amended to read:

627.4035 Cash payment of premiums; *claims*.—

(1) The premiums for insurance contracts issued in this state or covering risk located in this state shall be paid in cash consisting of coins, currency, checks, or money orders.

(2) *Subsection (1) This section is not applicable to:*

- (a) Reinsurance agreements;
- (b) Pension plans;
- (c) Premium loans, whether or not subject to an automatic provision;
- (d) Dividends, whether to purchase additional paid-up insurance or to shorten the dividend payment period;

- (e) Salary deduction plans;
- (f) Preauthorized check plans;
- (g) Waivers of premiums on disability;
- (h) Nonforfeiture provisions affording benefits under supplementary contracts; or
- (i) Such other methods of paying for life insurance as may be permitted by the department pursuant to rule or regulation.

(3) *All payments of claims made in this state under any contract of insurance shall be paid in cash consisting of coins, currency, checks, drafts or money orders, and if by check or draft shall be in such form as will comply with the standards for cash items adopted by the Federal Reserve System to facilitate the sorting, routing and mechanized processing of such items.*

Section 11. Section 627.4265, Florida Statutes, is created to read:

627.4265 *Payment of settlement.*—*In any case where a person and an insurer have agreed in writing to the settlement of a claim, the insurer shall tender payment according to the terms of the agreement no later than 20 days after such settlement is reached. The tender of payment may be conditioned upon execution by such person of a release mutually agreeable to the insurer and the claimant, but if the payment is not tendered within 20 days, or such other date as the agreement may provide, it shall bear interest at a rate of 12 percent per year from the date of the agreement; provided, however, that if the tender of payment is conditioned upon the execution of a release, the interest shall not begin to accrue until the executed release is tendered to the insurer.*

(Renumber subsequent sections.)

**Amendment 6**—In title, on page 1, line 24, after the semicolon (;) insert: amending s. 627.4035, Florida Statutes, 1982 Supplement, requiring cash payment of premiums and claims; creating s. 627.4265, Florida Statutes, relating to payment of settlements;

**Amendment 7**—On page 14, line 19, strike: 10 and insert: 11

**Amendment 8**—On page 14, between lines 22 and 23, insert:

Section 13. Subsection (6) of section 627.551, Florida Statutes, 1982 Supplement, is amended to read:

627.551 Group contracts and plans of self-insurance must meet group requirements.—

(6) This section does not apply to any plan which is established or maintained by an individual employer in accordance with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406. *This subsection shall not be construed to permit an authorized insurer to issue a group life insurance policy or certificate which does not comply with this part.*

Section 14. Subsection (5) of section 627.651, Florida Statutes, 1982 Supplement, is amended to read:

627.651 Group contracts and plans of self-insurance must meet group requirements.—

(5) This section does not apply to any plan which is established or maintained by an individual employer in accordance with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or to a multiple employer welfare arrangement as defined in s. 624.437(1), except that such multiple employer welfare arrangement shall comply with the requirements of ss. 627.657, 627.6575, 627.6576, 627.6616, and 627.662(5). *This subsection shall not be construed to permit an authorized insurer to issue a group health insurance policy or certificate which does not comply with this part.*

(Renumber subsequent sections.)

**Amendment 9**—In title, on page 1, line 31, after the semicolon (;) insert: amending ss. 627.551(6) and 627.651(5), Florida Statutes, 1982 Supplement; providing applicability of group life and health insurance requirements;

**Amendment 10**—On page 14, between lines 22 and 23 insert:

Section 13. Section 627.6055, Florida Statutes, 1982 Supplement, is amended to read:

627.6055 Handicapped children; continuation of coverage under individual policy.—An individual hospital or medical expense insurance policy or health care services plan contract, delivered or issued for delivery in this state, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both:

(1) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; and

(2) Chiefly dependent upon the policyholder or subscriber for support and maintenance;

*If a claim is denied under a policy or contract for the stated reason that the child has attained the limiting age for dependant children specified in the policy or contract, the burden shall be on the policyholder to establish that the child is and has continued to be handicapped as defined by subsections (1) and (2). ~~provided proof of such incapacity and dependency is furnished to the insurer or plan by the policyholder or subscriber within 60 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or plan, but not more frequently than annually after the 2-year period following the child's attainment of the limiting age—~~*

Section 14. Section 627.6615, Florida Statutes, 1982 Supplement, is amended to read:

627.6615 Handicapped children; continuation of coverage under group policy.—

(1) A group health insurance policy or health care services plan contract, delivered or issued for delivery in this state, which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both:

(1)(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; and

(2)(b) Chiefly dependent upon the employee or member for support and maintenance.

*If a claim is denied under a policy or contract for the stated reason that the child has attained the limiting age for dependent children specified in the policy or contract, the burden shall be on the policyholder to establish that the child is and has continued to be handicapped as defined by subsections (1) and (2).*

~~(2)—Proof of such incapacity and dependency shall be furnished to the insurer or plan by the employee or member within 90 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or plan, but not more frequently than annually after the 2-year period following the child's attainment of the limiting age.~~

(Renumber subsequent sections.)

**Amendment 11**—In title, on page 1, line 31, after the semicolon (;) insert: amending ss. 627.6055 and 627.6615, Florida Statutes, 1982 Supplement, relating to continuation of coverage for handicapped children under individual or group policies; deleting requirements that proof of incapacity and dependency be furnished to insurers by policyholders for coverage to continue after the child's attainment of the limiting age;

**Amendment 12**—On page 14, between lines 22 and 23, insert:

Section 13. Section 627.6411, Florida Statutes, is created to read:

627.6411 Maternity care.—Any policy of health insurance that provides coverage for maternity care shall also cover the services of certified nurse-midwives and midwives licensed pursuant to chapter 467.

Section 14. Section 627.6577, Florida Statutes, is created to read:

627.6577 Maternity care.—Any group, blanket, or franchise policy of health insurance that provides coverage for maternity care shall also cover the services of certified nurse-midwives and midwives licensed pursuant to chapter 467.

(Renumber subsequent sections.)

**Amendment 13**—In title, on page 1, line 31, after the semicolon (;) insert: creating ss. 627.6411 and 627.6577, Florida Statutes, relating to maternity care;

On motions by Senator Thomas, the Senate concurred in the House amendments.

CS for SB 1065 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gersten	Johnston	Myers
Beard	Girardeau	Kirkpatrick	Neal
Carlucci	Grant	Langley	Plummer
Castor	Grizzle	Malchon	Scott
Childers, D.	Hair	Mann	Stuart
Childers, W. D.	Henderson	Margolis	Thomas
Crawford	Hill	Maxwell	Thurman
Fox	Jenne	McPherson	Vogt
Frank	Jennings	Meek	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for CS for SB 517**—A bill to be entitled An act relating to taxation; amending ss. 206.05(1) and 206.90(1), Florida Statutes, as amended by chapter 83-3, Laws of Florida; amending s. 341.051(3) and (4), Florida Statutes, as amended by chapter 83-3, Laws of Florida; providing restrictions on the Department of Transportation's ability to enter into contracts for public transit projects; removing the minimum bond requirement; providing that the surety bond for certain fuel dealers be conditioned on compliance with the provisions of chapter 212, Florida Statutes; amending s. 212.08(4), Florida Statutes, 1982 Supplement, as amended by chapter 83-3, Laws of Florida; providing clarification for the prorated sales tax exemption; amending s. 212.92, Florida Statutes, as created by chapter 83-3, Laws of Florida; providing clarifying language; providing for quarterly payment for certain refunds; amending s. 212.90, Florida Statutes, as created by chapter 83-3, Laws of Florida; providing that certain taxpayers may purchase fuels in bulk and pay the tax accordingly; amending s. 336.025(1)(b), (2), (3) and (5)(b), Florida Statutes, as created by chapter 83-3, Laws of Florida, providing technical changes; providing that the local option gas tax may be levied for a period not to exceed 10 years; providing that certain refund provisions shall apply to such tax; providing for procedures to be developed by the Administration Commission; repealing s. 23 of chapter 83-3, Laws of Florida, and paragraph (c) of subsection (1) of s. 64 of such chapter, relating to refunds of municipal taxes and deposit of certain fuel taxes; amending s. 56 of chapter 83-3, Laws of Florida; requiring the retention of records of certain taxes for a certain period; amending s. 341.051(5), Florida Statutes; providing new limits on funding participation in public transit projects; amending s. 206.43(1) and s. 206.91(1), Florida Statutes, as amended by chapter 83-3, Laws of Florida; increasing certain collection allowances; providing for retroactivity of act; amending s. 207.005(3), Florida Statutes, as amended by chapter 83-3, Laws of Florida; providing for a credit against the fuel use tax for taxes paid under part II of chapter 212; amending s. 212.94, Florida Statutes, as created by chapter 83-3, Laws of Florida; reducing the amount of the exemption provided to gasohol; amending s. 320.20(2), Florida Statutes, as amended by chapter 83-3, Laws of Florida, revising provisions relating to deposit of a portion of motor vehicle license revenues in the Advanced Construction Interstate Revolving Trust Fund; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 22, line 8, insert new section 15 to read:

Section 15. Subsection (22) of section 212.02, Florida Statutes, 1982 Supplement, as amended by Chapter 83-3, Laws of Florida, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(22) "Special fuel" means any liquid product, gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term shall include, but not be limited to, all forms of fuel commonly or commercially known or sold as diesel fuel or kerosene; *However, "special fuel" does not include butane gas, or propane gas, and all other forms of liquefied petroleum gases.*

(Renumber subsequent sections.)

**Amendment 2**—In title, on page 2, line 28, after the semicolon (";"), insert: amending s. 212.02(22), Florida Statutes, as amended in Chapter 83-3, Laws of Florida; amending the definition of special fuel;

**Amendment 3**—On page 13, lines 23 and 24, strike: *distilled from U.S. agricultural products or by-products*

**Amendment 4**—On page 15, line 10, after "(a)", insert: *and (e)*

**Amendment 5**—On page 4, line 28, after the period ("."), insert: *However, diesel fuel and kerosene used in any tractor, vehicle or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II.*

**Amendment 6**—In title, on page 1, line 17, after the semicolon (";"), insert: providing that certain diesel fuel and kerosene is taxable under part II of Chapter 212;

On motions by Senator Margolis, the Senate concurred in the House amendments.

CS for CS for SB 517 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Johnston	Neal
Barron	Gersten	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Mann	Thurman
Childers, D.	Hair	Margolis	Vogt
Childers, W. D.	Henderson	Maxwell	Weinstein
Crawford	Hill	McPherson	
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 1097 and requests the Senate to recede.

*Allen Morris, Clerk*

**HB 1097**—A bill to be entitled An act relating to Clay and Bradford Counties; repealing chapter 65-1274, Laws of Florida, relating to the Key-stone-Starke Airport Authority Act; providing an effective date.

On motions by Senator Carlucci, the Senate receded from Senate Amendments 1 and 2.

HB 1097 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Neal
Barron	Gersten	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1099 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committees on Finance & Taxation and the Select Committee on Growth Management—

**CS for HB 1099**—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.041, Florida Statutes, providing that certain coastal development shall not interfere, except during construction, with the use by the public of certain beach areas; amending s. 161.053(1) and (4), Florida Statutes, and adding subsections (13) and (14) thereto, authorizing the Department of Natural Resources to establish segments of a coastal construction line further landward than the impact zone of a 100-year storm surge under certain circumstances; providing that the department may authorize an excavation or erection of a structure at any coastal location under certain circumstances; providing that the department may condition the nature, timing and sequence of construction of permitted activities to provide protection to nesting sea turtles and hatchlings and to provide protection to native salt resistant vegetation and endangered plant communities; providing that the department may delegate authority for permitting certain types of activities to a coastal county or municipality; providing fees; reenacting s. 161.054, Florida Statutes, to incorporate the amendment to s. 161.053, Florida Statutes, in references thereto; providing an effective date.

—was read the first time by title. On motions by Senator Neal, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

On motions by Senator Neal, by unanimous consent, CS for HB 1099 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Girardeau	Langley	Scott
Beard	Gordon	Malchon	Stuart
Carlucci	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	Maxwell	Vogt
Childers, W. D.	Henderson	McPherson	Weinstein
Crawford	Hill	Meek	
Dunn	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

*The Honorable Curtis Peterson, President*

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

**CS for SB 783**—A bill to be entitled An act relating to solid waste transport; amending s. 403.713, Florida Statutes; providing for special laws or local ordinances limiting the free flow of solid waste; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 2, line 4, after the period insert:

Section 2. Section 403.7065, Florida Statutes, is created to read:

403.7065 Procurement of recovered materials.—Any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, shall be required to procure recovered materials when those materials are available at reasonable prices. A decision not to procure such items shall be based on a determination that such procurement is 1) not reasonably available within a reasonable period of time; 2) fails to meet the performance standards set forth in the applicable specifications, or fails to meet the reasonable performance standards of the agency; or 3) are only available at an unreasonable price.

**Amendment 2**—In title, on page 1, line 5, insert after the semicolon (:): creating s. 403.7065, Florida Statutes, requiring state agencies and agencies of political subdivisions to procure recovered materials under certain circumstances;

**Amendment 3**—On page 1, line 9, insert:

Section 1. Section 403.701, Florida Statutes, is amended to read:

403.701 Short title.—Sections 403.701-403.73 shall be known and may be cited as the “Florida Resource Recovery and *Solid Waste Management Act*.”

Section 2. Paragraph (e) of subsection (1) of section 403.702, Florida Statutes, and paragraphs (a), (b), (c), (d), and (g) of subsection (2) of said section are amended to read:

403.702 Legislative findings; public purpose.—

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and creation of nuisances; protect the public health, safety, and welfare; and provide a coordinated statewide resource recovery and *solid waste management program*, the Legislature finds that:

(e) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, *the unwise use of land for solid waste disposal*, and, therefore, maximum resource recovery from solid waste and maximum ~~recycling and reuse~~ of such resources must be considered goals of the state.

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate the storage, collection, transport, separation, processing, *resource recovery recycling*, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of the state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical assistance for resource recovery and *solid waste management*.

(c) Provide the authority, and require counties and municipalities, to adequately plan and provide efficient, environmentally acceptable resource recovery and *solid waste management* except for hazardous wastes.

(d) Require review of the design, and issue permits for the *construction, operation, and closure* of resource recovery and *solid waste management facilities*.

(g) Promote the *resource recovery recycling*, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such wastes.

Section 3. Section 403.703, Florida Statutes, is amended to read:

403.703 Definitions.—As used in this act:

(1) “Department” means the Department of Environmental Regulation or any successor agency performing a like function.

(2) “County or municipality,” or any like term, shall include political subdivisions engaged in resource recovery and *solid waste management*.

(3) “Person” means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(4) ~~“Recycling” means the reuse of solid waste in manufacturing, agriculture, power production, or other processes.~~

(5) ~~“Resource management” means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.~~

(4)(6) “Resource recovery” means the *recovery of materials or energy from solid waste process by which materials, excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose are reused or recycled for the same or other purposes, including use as an energy source.*

(5)(7) ~~“Resource recovery and management facility” means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating or preparing solid waste for reuse solid waste disposal area, volume reduction plant, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.~~

(6)(8) “Resource recovery equipment” means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(7)(9) “Solid waste” means sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(10) ~~“Volume reduction plant” includes, but is not limited to, incinerators, pulverizers, compactors, shredding and baling plants, transfer stations, composting plants, and other plants which accept and process solid waste for recycling or disposal.~~

(11) ~~“Yard trash” means vegetative matter resulting from landscaping maintenance and land clearing operations.~~

(12) ~~“Trash landfills” means combinations of yard trash and construction and demolition debris along with paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like matter.~~

(8)(13) “Construction and demolition debris” means material generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, or asphalt roofing material.

(14) ~~“Class I solid waste disposal area” means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover daily.~~

(15) ~~“Class II solid waste disposal area” means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.~~

(16) ~~“Initial cover” means a 6-inch layer of compacted earth, or other suitable material as approved by the department, used to enclose a volume of solid waste prior to intermediate or final cover.~~

(17) ~~“Monitoring well” means a strategically located well from which water samples are drawn for water quality analysis.~~

(9)(18) “Closure” means the cessation of operation of a resource recovery and management facility *and the act of securing such a facility so that it will pose no significant threat to human health or the environment.*

(10)(19) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste *does not endanger public health or or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment.*

(11)(20) “Generation” means the act or process of producing hazardous waste.

(12)(21) “Hazardous waste” means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(13)(22) “Hazardous waste facility” means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(14)(23) “Hazardous waste management” means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(15)(24) "Manifest" means the method used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(16)(25) "Operation," with respect to any resource recovery or solid waste and management facility, means the processing, disposal, storage, or treatment of solid waste at and by the facility.

(17)(26) "Storage" means the containment or holding of solid a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(18)(27) "Transport" means the movement of solid hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points, and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(19)(28) "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(20) "Normal farming operations" means the generally accepted activities and practices used in the production and preparation for market of poultry, livestock, aquacultural, agricultural and silvicultural crops and their products. It includes the management, collection, storage, composting, transportation, and use of agricultural process waste, manure, and wastes normally derived as a result of processing agricultural and silvicultural crops unless an environmental or public health hazard may result.

(21) "Processing" means the extraction of energy or materials from solid waste, or the transfer, volume reduction, or other treatment of solid waste to prepare it for transport, reuse, or disposal.

(22) "Solid waste management," means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, resource recovery, treatment, and disposal of solid waste.

(23) "Solid waste management facility" means any land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

Section 4. Section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) Adopt by rule for the state a resource recovery and solid waste management program, as defined in s. 403.705, by July 1, 1976. In developing the state resource recovery and management program, the department shall hold public hearings around the state in accordance with chapter 120, and shall give notice of such public hearings to all local governments and regional planning agencies.

(2) Designate areas by rule or order to develop and implement local resource recovery and solid waste management programs. Such designation shall be based on population, quantities and types of wastes generated, available markets for recovered materials or energy, or the environmental impacts of continued land disposal of solid wastes, as determined by the department.

(3)(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(4)(3) Promote the planning and application of recycling and resource recovery and solid waste management programs systems which preserve and enhance the quality of the air, water, and other natural resources of the state.

(5)(4) Serve as the official state representative for all purposes of the Federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(6)(5) Utilize private industry through contractual arrangements for implementation of some or all of the requirements of the state resource recovery and solid waste management program and for such other activities as may be considered necessary, desirable, or convenient.

(7)(6) Encourage recycling and resource recovery as a an energy source of energy and materials.

(8)(7) Assist in and Encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(9)(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with resource recovery and solid waste management services.

(10)(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for resource recovery or solid waste and management facilities.

(11)(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such resource recovery or solid waste and management facilities as are called for by the state resource recovery and solid waste management program.

(12) Establish by rule classifications of resource recovery and solid waste management facilities based on amounts and types of wastes received and construction, operation, and closure requirements for each class, including the type of equipment, personnel, frequency of cover, and number of monitoring wells to be provided. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of relatively inert solid waste.

(13)(11) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or operated facilities, which funds or revenues shall be deposited into the General Revenue Fund.

(12) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each Class I solid waste disposal area.

(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply, an employee shelter, handwashing and toilet facilities, equipment washout facilities, electric service for operations and repairs, equipment shelter for maintenance and storage of parts, equipment and tools, scales for weighing solid waste received at the disposal area, a trained equipment operator in full time attendance during operating hours, and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.

(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of groundwater flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.

(15) Promulgate rules for solid waste disposal areas limited exclusively to yard trash, for solid waste disposal areas limited exclusively to construction and demolition debris, and for solid waste disposal areas limited exclusively to trash. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of these solid wastes. Reduced requirements for engineering, location, covering, monitoring wells, or forced draft burning may be allowed for such solid waste disposal areas, providing the requirements will not allow a threat to the public health or environment to exist and providing the requirements are consistent with all other state or local laws, ordinances, rules, regulations, or orders.

(14)(16) Adopt, repeal, or amend rules to implement, administer, and enforce this act; provided, no department rule regarding hazardous waste shall be more stringent than federal regulations promulgated pur-

suant to the Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, as amended. However, the Environmental Regulation Commission, pursuant to a finding of compelling need, may adopt by rule a stricter standard than the federal regulation. Additionally, upon a finding by the Environmental Regulation Commission that a hazardous waste not regulated by the United States Environmental Protection Agency poses an imminent hazard to the public health, safety, and welfare or to the environment, the Environmental Regulation Commission may adopt a rule regulating such hazardous waste. In either case, the Governor and Cabinet shall review the rule and shall accept, reject, or modify the rule, or remand the rule for further proceedings, within 60 days from its submission. In either case, such rules shall not be effective until final action by the Governor and Cabinet. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies are required under the Resource Conservation and Recovery Act, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(15)(17) Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(16)(18) Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(17)(19) Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(18)(20) Delegate its powers by rule or order, enter into contracts, or take such other actions as may be necessary to implement this act.

(19) Utilize private industry through contractual arrangements for the purpose of receiving technical information on solid waste practices and policies.

The provisions of subsections (6), (9), (10), (11), and (13) shall not be implemented unless the department determines by rule that such implementation is reasonably necessary to prevent significant adverse environmental or public health impacts.

Section 5. Paragraph (c) of subsection (1) of section 403.7045, Florida Statutes, 1982 Supplement, and paragraph (d) of subsection (3) of said section are amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(c) Emissions to the air from a stationary installation or source regulated under provisions of chapter 403 or under the Clean Air Act, Pub. L. No. 95-95 95-11;

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

(d) Infectious waste as defined in s. 395.002(13) which emanates from a hospital or ambulatory surgical center as defined in s. 395.002 shall be disposed of by any means authorized by the department rule, including land disposal after sterilization or incineration. Any person who unknowingly disposes into a sanitary landfill any such waste which has not been properly segregated or separated from other solid wastes by the generating facility is not guilty of a violation under this act. Nothing in this paragraph shall be construed to prohibit the department from seeking injunctive relief pursuant to s. 403.131 to prohibit the unauthorized disposal of infectious waste.

Section 6. Section 403.705, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.705, F.S., for present text.)

403.705 State resource recovery and solid waste management program.—The state resource recovery and solid waste management program is established in the department for purposes of statewide resource recovery and solid waste management. Under the program the department shall:

(1) Investigate the status of resource recovery and solid waste management in the state and make recommendations in the state solid waste management plan for state and local action to correct deficiencies in resource recovery and solid waste management practices.

(2) Develop or approve requirements for the orderly generation, collection, transportation, storage, source separation, processing, resource recovery, and disposal of solid waste.

(3) Emphasize the use of resource recovery and other technologies that recover valuable resources from waste and reduce the volume of waste going to land disposal, particularly in those areas of the state where land disposal may endanger public drinking water supplies.

(4) Encourage the coordination of local resource recovery and solid waste management activities in common geographic areas by:

(a) Designating areas for resource recovery and solid waste management planning based on population, quantities and types of waste generated, available markets for recovered materials or energy, or the environmental effects of continued land disposal, as determined by the secretary or by rule.

(b) Reviewing, at least every 3 years, any area of the state that has not been designated for resource recovery and solid waste management planning to determine if such area should be so designated.

Section 7. Section 403.7055, Florida Statutes, is created to read:

403.7055 Local government resource recovery and solid waste management; authority; responsibilities.—

(1) All counties and municipalities shall assure proper resource recovery and solid waste management within their jurisdictions in accordance with this act.

(2) Local governments that undertake resource recovery from solid waste may, if they determine it is necessary, ensure that the resource recovery facility receives an adequate quantity of solid waste by requiring that solid waste generated within their jurisdiction be taken to such a facility. Such solid waste shall not include scrap, or new or used materials, separated at the point of generation and held for purposes of recycling, said separation shall be subject to state and local public health and safety laws.

(3) No local government may prohibit the transportation of solid wastes not generated within its boundaries. Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for resource recovery and solid waste management requirements which are stricter with regard to the stream flow of solid waste or more extensive than those imposed by the state resource recovery and solid waste management program and rules and orders issued thereunder.

Section 8. Section 403.706, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.706, F.S., for present text.)

403.706 Local resource recovery and solid waste management program responsibilities for designated areas.—

(1) A local resource recovery and solid waste management program shall be established in any area of the state designated by the department pursuant to s. 403.705. The local program shall be approved by the department and shall implement the provisions of the state program.

(2) The units of local government within a designated area shall have 3 years from the effective date of designation to:

(a) Determine which local government agency within the designated area shall administer the local resource recovery and solid waste management program.

(b) Submit a local resource recovery and solid waste management program plan to the department for review and approval. The plan shall be designed to establish an interlocal method of bringing all resource recovery and solid waste facilities and practices into compliance with the provisions of this part and rules adopted hereunder. The department shall approve any plan which complies with state resource recovery and solid waste management program guidelines and regulations.

(3) Each local resource recovery and solid waste management program plan submitted to the department shall contain an implementation schedule which shall:

(a) Be agreed upon by each local government participating in the program plan;

(b) Be modified only upon approval by the department at the request of a local program which shows sufficient evidence and justification for modification;

(c) Provide a timetable indicating when the total program, as well as its component parts, will be completed;

(d) Identify any agency responsible for implementing the program. The department shall monitor the implementation of each local program plan to determine if such program complies with requirements of the state program.

(4) Any unit of local government within an area designated pursuant to s. 403.705 which unit of local government does not participate in the resource recovery and solid waste management program for such area within 3 years after the date of designation shall submit a separate resource recovery and solid waste management program plan pursuant to subsections (2), (3), and (6).

(5) Each local resource recovery and solid waste management program plan shall be reviewed by the local administering agency responsible for such plan at least once every 3 years. Each local administering agency shall be responsible for updating its local program plan consistent with the rules adopted by the department and for submitting program plan revisions to the department for review and approval.

(6) No unit of local government shall be required to implement the resource recovery portion of its program plan unless the governing body of such unit of local government has determined that participation in such a program is economically feasible for that unit of local government.

(7) The time limit provided in subsection (2) shall be extended by the department upon application to the department by the local program administering agency that good faith efforts to meet the requirements of this part have been and are being made.

(8) Nothing in this act shall be construed to prohibit agreements between two or more local government entities, whether municipal or county, concerning resource recovery and solid waste management.

Section 9. Subsections (1), (2), and (4) of section 403.707, Florida Statutes, 1982 Supplement, are amended to read:

403.707 Permits.—

(1) ~~After January 1, 1975,~~ No resource recovery or solid waste and management facility or site shall be operated, maintained, constructed, expanded, ~~or~~ modified, or closed without an appropriate and currently valid permit issued by the department. *Upon closing a facility or site, a permit shall be required until information from monitoring of the facility or site indicates that there will be no significant threat to human health or the environment. Closure plans shall be submitted to the department as part of an application for an operation permit. If a facility or site is proposed to be closed in accordance with an approved closure plan, the closure permit shall be issued by the department.*

(2) *Except as provided in s. 403.722(6), no permit under this section shall be required for the following activities, provided no public nuisance or any condition posing a significant adverse effect to the environment or public adversely affecting the public health is created, and provided the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:*

(a) Disposal by persons of solid waste resulting from their own activities on their own property. *However, the department may by rule require any such person to file a written notification to the department of the type of solid wastes being disposed of, the location of disposal, and the methods of solid waste management being performed.*

(b) Normal farming operations.

(c) Solid waste disposal areas limited solely to the disposal of construction and demolition debris.

(4) ~~When a permit application is made for a permit for a Class I or Class II solid waste disposal site area is made,~~ it shall be the duty of the

department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the site of such area is to be located. The water management district shall prepare a report as to the impact on water resources. This report shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department.

Section 10. Paragraphs (a) and (c) of subsection (1) of section 403.708, Florida Statutes, are amended to read:

403.708 Prohibition; penalty.—

(1) No person shall:

(a) Place or deposit or *cause to be placed or deposited* any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

(c) Construct, alter, modify, ~~or~~ operate, or close a resource recovery or solid waste and management facility or site without first having obtained a valid permit from the department as provided in s. 403.707.

(Renumber subsequent sections.)

**Amendment 4**—In title, on page 1, lines 1-6, strike all of said lines and insert:

A bill to be entitled An act relating to solid waste management; amending s. 403.701, Florida Statutes; providing a short title; amending s. 403.702(1)(e), (2)(a)-(d), (g), Florida Statutes; providing legislative intent; amending s. 403.703, Florida Statutes; providing definitions; amending s. 403.704, Florida Statutes; providing powers and duties of the Department of Environmental Regulation regarding solid waste management programs; amending s. 403.7045(1)(c), (3)(d), Florida Statutes, 1982 Supplement; conforming language; amending s. 403.705, Florida Statutes; establishing the state resource recovery and solid waste management program; providing for designating certain areas for resource recovery and solid waste management planning; creating s. 403.7055, Florida Statutes; requiring counties and municipalities to provide for resource recovery and solid waste management; amending s. 403.706, Florida Statutes; providing guidelines and responsibilities for local management programs; amending s. 403.707(1), (2), (4), Florida Statutes, 1982 Supplement; requiring a permit to construct, operate, or close certain facilities or sites; amending s. 403.708(1)(a), (c), Florida Statutes; providing penalties; amending s. 403.713, Florida Statutes; limiting application under certain circumstances; providing an effective date.

On motions by Senator Castor, the Senate concurred in House Amendments 1 and 2 and refused to concur in House Amendments 3 and 4 and the House was requested to recede.

CS for SB 783 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—1

McPherson

*The Honorable Curtis Peterson, President*

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

**CS for SB 166**—A bill to be entitled An act relating to state lands management; adding s. 195.073(7), Florida Statutes, 1982 Supplement; providing for classification of publicly owned real property; amending s. 253.03(8), Florida Statutes; requiring the Board of Trustees of the Inter-

nal Improvement Trust Fund to prepare an inventory of state lands using certain tax roll data; providing for submission of certain information to the Legislature; requiring the board to prepare and distribute certain lists of publicly owned lands; amending s. 253.034(4) and (5), Florida Statutes, 1982 Supplement; requiring certain state agencies to submit a land management plan to the Department of Natural Resources by January 1, 1984; providing for determining which state lands are of no benefit to the public and for disposal of such lands; providing a rebuttable presumption; amending s. 253.111(2), (3), (4), Florida Statutes, and adding subsection (8) to said section; specifying certain time periods regarding the proposed sale of state lands to a county; providing an exception; amending s. 253.115(1), (3), (4), Florida Statutes, 1982 Supplement; providing for notifying certain landowners of the sale of certain state lands; providing exceptions; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 4, lines 19-31, on page 5, lines 1-31, and on page 6, lines 1-11, strike all of said lines and insert:

Section 3. Subsections (2) and (3) of section 253.034, Florida Statutes, 1982 Supplement, are amended, subsections (4), (5), and (6) are amended and renumbered, and a new subsection (4) is added to said section, to read:

253.034 State-owned lands; uses.—

(2) All lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be managed in a manner that will provide the greatest combination of benefits to the people of the state. All such lands not designated in the land-management plan required by subsection (5) (4) for a specific single use shall receive multiple-use management.

(3) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund shall not sublease such lands without prior review by the division and by the land management advisory committee created in subsection (4) and approval by the board. The land management advisory committee shall not be required to review subleases of parcels which are less than 160 acres in size.

(4) There is hereby established a land management advisory committee to provide assistance to the Board of Trustees of the Internal Improvement Trust Fund in reviewing the recommendations and plans for state-owned lands required by this section. The committee shall be composed of the executive director of the Department of Natural Resources; the commissioner of the Department of Agriculture and Consumer Services; the Secretary of State; the executive director of the Game and Fresh Water Fish Commission; the secretary of the Department of Environmental Regulation; the secretary of the Department of Corrections; and the commissioner of the Department of Education, or their respective designees. The chairmanship of the committee shall rotate annually in the order specified above. The committee shall hold periodic meetings at the request of the chairman. The Division of State Lands shall provide primary staff support to the committee and shall ensure that committee meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 267.

(5)(4) Each state agency managing lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall submit to the Division of State Lands and to the board a land-management plan no later than July 1, 1984, within 2 years of July 1, 1980, and at least every 5 years thereafter in a form and manner prescribed by rule by the board no later than January 1, 1984. All management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile nonrenewable resources, such as archaeological and historic sites, as well as other fragile resources, including endangered plant and animal species. Land-management plans submitted by an agency shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land-management plan.

(a) The Division of State Lands shall submit a copy of each land-management plan for parcels which exceed 160 acres in size to each member of the land management advisory committee. The committee shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The committee shall also consider the propriety of the managing agency's recommendations with regard to future use of the property, protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing agency, and the possibility of disposal of the property by the board. After its review, the committee shall submit the plan, along with its recommendations and comments, to the board. The committee shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land-management plan submitted by each state agency and the recommendations of the land management advisory committee and the Division of State Lands and shall approve with or without modification or reject such plan. The use or possession of any such lands which is not in accordance with an approved land-management plan shall be subject to termination by the board.

(6)(5) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, and which Murphy Act lands, the title to which is held by the state, are of no benefit to the public; and the owner of such lands shall dispose of such lands, pursuant to law, as surplus.

(a) No later than July 1, 1984, within 2 years of July 1, 1980, and at least every 5 years thereafter in a form and manner prescribed by rule by the board, each state agency shall indicate to the board those lands which the agency owns or manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the land management advisory committee for its recommendation as to whether such lands shall be disposed of by the board the agency believes are surplus.

(b) Lands owned by the board which are not actively managed by any state agency or for which a land-management plan has not been completed pursuant to subsection (5) shall be reviewed by the land management advisory committee for its recommendation as to whether such lands shall be disposed of by the board.

(c) In reviewing lands owned by the board pursuant to paragraphs (a) and (b), the land management advisory committee shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The committee shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph shall in no way limit the provisions of s. 253.111 and s. 253.115.

(d) After reviewing the recommendations of the land management advisory committee, the board shall determine whether lands identified in paragraphs (a) and (b) shall be held for other public purposes or whether such land is of no benefit to the public. The board may require an agency to release its interest in such lands. Lands determined to be of no benefit to the public shall be disposed of pursuant to law. The proceeds from the disposal of such lands shall be placed in the Conservation and Recreation Lands Trust Fund.

(7)(6) This section shall not be construed so as to affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease authorized and executed by the Board of Trustees of the Internal Improvement Trust Fund leasing state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

**Amendment 2**—In title, on page 1, lines 13-20, strike all of said lines and insert: lands; amending s. 253.034(2)-(6), Florida Statutes, 1982 Supplement, and adding a new subsection (4); establishing a land management advisory committee to assist the board in reviewing the recommendations and plans for state-owned lands; directing the Division of State Lands to provide the committee with certain land-management plans; providing criteria and time schedules for review; amending s.

**Amendment 3**—On page 9, line 21, strike all of said line and insert: Section 6. This act shall take effect upon becoming a law.

**Amendment 4**—In title, on page 1, lines 13-20, after the semicolon (;) on line 13 strike all of said line. Lines 14 thru 19 strike all of said lines. Line 20 strike all language through and including the word "presumption" and insert: amending s. 253.034, Florida Statutes, 1982 Supplement; establishing a land management advisory committee to assist the board in reviewing the recommendations and plans for state-owned lands; directing the Division of State Lands to provide the committee with certain land management plans; providing criteria and time schedules for review;

On motions by Senator Neal, the Senate concurred in the House amendments.

CS for SB 166 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Scott
Carlucci	Gordon	Malchon	Stuart
Castor	Grant	Mann	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

Consideration of SB 688 was deferred.

#### SPECIAL ORDER, continued

On motions by Senator Gordon, the rules were waived and by two-thirds vote CS for HB 700 was withdrawn from the Committees on Health and Rehabilitative Services, and Appropriations.

**CS for HB 700**—A bill to be entitled An act relating to health facilities and health services planning; amending s. 381.493(3)(b) and (m)-(s), Florida Statutes, 1982 Supplement, and adding a new paragraph (m) and paragraph (u), providing definitions; amending s. 381.494(1)(g), (i), and (m), (5), (6)(b) and (c), and (8)(f) and (g), and adding a paragraph to subsection (1), Florida Statutes, 1982 Supplement, expanding the types of project cost increases which may be reviewed by the Department of Health and Rehabilitative Services; requiring review of certificate of need transfers; exempting expedited projects from certain requirements; changing certain project review procedures; changing the circumstances in which public hearings are required; changing review criteria; requiring certain certificates of need to disclose information relating to beds; creating s. 381.4951, Florida Statutes, providing for competitive bid procedures for certificates of need for an ICF/MR; amending s. 395.003(4), Florida Statutes, 1982 Supplement, requiring certain information relating to number of beds on hospital licenses; adding a paragraph to s. 395.005(1), Florida Statutes, 1982 Supplement, requiring hospitals to submit certain data to the Department of Health and Rehabilitative Services; requiring the Statewide Health Council to study hospital bed usage and report to the Legislature; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote CS for HB 700 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Johnston	Rehm
Barron	Girardeau	Kirkpatrick	Scott
Beard	Gordon	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	McPherson	Vogt
Childers, W. D.	Henderson	Myers	Weinstein
Crawford	Hill	Neal	
Dunn	Jennings	Plummer	

Nays—None

On motion by Senator Johnston, the rules were waived and the Senate reverted to—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed as amended HB 739 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representative Weinstock and others—

**HB 739**—A bill to be entitled An act relating to Palm Beach County; providing for repeal of Chapter 63-1747, Laws of Florida, as amended, and dissolution of all fire control taxing districts created thereunder upon the adoption of an ordinance by Palm Beach County providing for municipal service taxing unit(s) to provide fire protection and advanced life support/fire rescue services; providing for authority to enable municipal taxing unit(s) created to contract for advanced life support/fire rescue services; providing for a three (3) mill cap; providing for a statutory contract price for fire protection and advanced life support/fire rescue services by any municipal service taxing unit to any municipality currently served by a fire control taxing district created pursuant to Chapter 63-1747, Laws of Florida, as amended; providing for ordinances applicable to municipal service taxing unit(s) to apply within municipalities contracting for services with a municipal service taxing unit(s); providing for all assets and liabilities of fire control taxing district dissolved to be transferred to Palm Beach County; providing for responsibility for existing bonded indebtedness of fire control taxing districts, created pursuant to Chapter 63-1747, Laws of Florida, as amended; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title. On motion by Senator Johnston, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

On motions by Senator Johnston, by unanimous consent, HB 739 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gersten	Jennings	Meek
Barron	Girardeau	Johnston	Myers
Carlucci	Gordon	Kirkpatrick	Plummer
Castor	Grant	Langley	Rehm
Childers, W. D.	Grizzle	Malchon	Stuart
Crawford	Hair	Mann	Thurman
Dunn	Henderson	Margolis	Vogt
Fox	Hill	Maxwell	Weinstein
Frank	Jenne	McPherson	

Nays—1

Childers, D.

#### SPECIAL ORDER, continued

**HB 1239**—A bill to be entitled An act relating to liens; creating s. 713.79, Florida Statutes, providing that a lien for certain charges and fees of any publicly owned and operated airport attaches to any aircraft owned or operated by a person owing such charges and fees; providing a penalty; creating s. 713.792, Florida Statutes, providing for enforceability of certain liens with respect to aircraft; providing for required notice; providing for applicability; providing an effective date.

—was taken up pending roll call.

On motion by Senator Jenne, the Senate reconsidered the vote by which HB 1239 was read the third time on June 2.

On motion by Senator Jenne, the Senate reconsidered the vote by which Amendment 1 was adopted.

Senator Langley moved the following amendment to Amendment 1 which was adopted:

**Amendment 1A**—On page 2, strike all of lines 6-30 and insert:

Section 2. Section 713.792, Florida Statutes, is created to read:

713.792 Liens for aircraft; notice.—Any lien claimed on an aircraft pursuant to s. 713.58 is enforceable when the lienor records a verified lien notice with the clerk of the circuit court in the county where the aircraft was located at the time the labor, services, or material was last furnished. The notice shall state the name of the lienor; the name of the owner; a description of the aircraft upon which the lienor has expended labor, services, or material; the amount for which the lien is claimed; and the date the expenditure was completed. This section does not affect the priority of competing interests in any aircraft or the lienor's obligation to record his lien pursuant to s. 329.01.

Section 3. Aircraft identification.—

(1) It is unlawful for any person, firm, association, or corporation to knowingly buy, sell, offer for sale, receive, dispose of, conceal, or have in his possession, or to endeavor to buy, sell, offer for sale, receive, dispose of, conceal, or possess, any aircraft or part thereof on which the assigned identification numbers do not meet the requirements of the federal aviation regulations. Any person violating any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Failure to have the aircraft identification numbers clearly displayed on the aircraft and in compliance with federal aviation regulations shall be probable cause for any law enforcement officer in the state to make further inspection of the aircraft in question to ascertain the true identity thereof. Law enforcement officers are authorized to inspect aircraft for identification numbers on public property or if such aircraft is stored on private property upon the consent of the owner of the property.

Section 4. Aircraft fuel tanks.—In the interests of the public welfare it shall be unlawful for any person, firm, corporation, or association to install, maintain, or have in his possession any aircraft which has been equipped or had installed in its wings or fuselage fuel tanks, bladders, drums, or other containers which will hold fuel which do not conform to federal aviation regulations or which have not been approved by the Federal Aviation Administration by inspection or special permit. This shall also mean to include all pipes, hoses, or auxiliary pumps which by their presence in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers. Any person violating any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Aircraft registration.—It shall be unlawful for any person in this state to have in his possession an aircraft that is not properly registered with the Federal Aviation Administration. Any aircraft found to be registered to a nonexistent person, firm, corporation, or address shall be in violation of this section. Any evidence of a firm or corporation that has no physical location, corporate officers, or has lapsed into such a state as being inactive, and is so listed with the Secretary of State, shall have shown to be in violation of this section by attempting to conceal the true ownership of any or all aircraft within its control. Any violation of this section shall be deemed a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Renumber subsequent sections.)

Amendment 1 as amended was adopted.

On motion by Senator Jenne, the Senate reconsidered the vote by which Amendment 2 was adopted.

Senator Langley moved the following amendment to Amendment 2 which was adopted:

**Amendment 2A**—In title, on page 1, strike all of lines 13-26 and insert: An act relating to aircraft; providing for the imposition of a lien on certain aircraft landing on certain publicly owned and operated airports; prohibiting the removal of such aircraft after notice of lien has been served or posted; providing penalties; creating s. 713.792, Florida Statutes; providing for notice of liens for aircraft; prohibiting certain actions with respect to aircraft the identification of which does not meet federal requirements; providing a penalty; providing for inspection of aircraft for certain purposes; prohibiting the possession or maintenance of aircraft with illegal fuel capacity; providing a penalty; prohibiting the possession of unregistered aircraft and restricting such registration; providing a penalty; repealing s. 125.021, Florida Statutes, relating to liens on aircraft landing at county airports; providing an effective date.

Amendment 2 as amended was adopted.

On motion by Senator Jenne, by two-thirds vote HB 1239 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Frank	Jennings	Neal
Beard	Girardeau	Johnston	Plummer
Castor	Grizzle	Kirkpatrick	Stuart
Childers, D.	Hair	Mann	Thomas
Childers, W. D.	Henderson	Margolis	Thurman
Crawford	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Grant, Langley

On motion by Senator Vogt, the rules were waived and by two-thirds vote HB 611 was withdrawn from the Committee on Judiciary-Criminal.

On motion by Senator Vogt—

**HB 611**—A bill to be entitled An act relating to bingo; amending s. 849.093, Florida Statutes; providing definitions; providing rules for the conduct of bingo games; providing an effective date.

—a companion measure, was substituted for CS for SB 279 and read the second time by title. On motion by Senator Vogt, by two-thirds vote HB 611 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnston	Neal
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Langley	Stuart
Castor	Gordon	Malchon	Thomas
Childers, D.	Grant	Mann	Thurman
Childers, W. D.	Grizzle	Margolis	Vogt
Crawford	Hair	Maxwell	Weinstein
Dunn	Henderson	Meek	

Nays—1

McPherson

Vote after roll call:

Yea—Jenne

CS for SB 279 was laid on the table.

**HB 180**—A bill to be entitled An act relating to arrests; amending s. 901.211, Florida Statutes, providing procedures and conditions for the conduct of strip searches; requiring specified written permission and a report; providing an effective date.

—was read the second time by title. On motion by Senator Fox, by two-thirds vote HB 180 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Jenne	Myers
Barron	Frank	Jennings	Neal
Beard	Gersten	Johnston	Stuart
Carlucci	Girardeau	Kirkpatrick	Thomas
Castor	Grant	Langley	Thurman
Childers, D.	Grizzle	Mann	Vogt
Childers, W. D.	Hair	Margolis	Weinstein
Crawford	Henderson	McPherson	
Dunn	Hill	Meek	

Nays—None

**HB 310**—A bill to be entitled An act relating to agricultural inspections; amending s. 570.15(1)(b), Florida Statutes; providing additional standards for application for a search warrant for regulatory inspection; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 310 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Grant	Langley	Stuart
Castor	Grizzle	Malchon	Thomas
Childers, D.	Hair	Mann	Thurman
Childers, W. D.	Henderson	Margolis	Vogt
Crawford	Hill	Maxwell	Weinstein
Dunn	Jenne	Meek	

Nays—None

**CS for CS for SB 302**—A bill to be entitled An act relating to professional regulation; providing for the regulation of the dispensing of hearing aids by the Department of Professional Regulation; providing legislative purpose; providing definitions; creating a Board of Hearing Aid Specialists within the department; providing for the appointment of board members; providing for a headquarters; providing qualifications and procedures for licensure by examination and by endorsement; providing for license renewal; authorizing licensees to place their licenses on inactive status; authorizing continuing education requirements as a condition for reactivating a license; prohibiting specified conduct and providing penalties; providing for disciplinary proceedings and penalties for specified conduct; providing minimal procedures and equipment; providing for inspection of equipment by the Department of Health and Rehabilitative Services; providing for a fee; providing for rules; authorizing the Department of Health and Rehabilitative Services to inspect and investigate; providing for receipts, packaging, disclaimers, and guarantees; prohibiting the sale or distribution of hearing aids through the mail; providing a penalty; requiring the board to report criminal violations of the act to prosecuting authorities; authorizing the adoption of rules; providing exemptions; providing for a type four transfer; providing for repeal and legislative review; repealing part II of chapter 468, Florida Statutes, relating to the regulation of the fitting and selling of hearing aids by the Department of Health and Rehabilitative Services; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for CS for SB 302 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	Meek
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Plummer
Carlucci	Girardeau	Kirkpatrick	Rehm
Castor	Grant	Langley	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Mann	Thomas
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Thurman

**CS for CS for SB 132**—A bill to be entitled An act relating to health care cost containment; amending ss. 626.9541, 627.614, 627.643, Florida Statutes, 1982 Supplement; creating ss. 627.6371, 627.6621, 627.6691, Florida Statutes; allowing insurers or groups of insurers providing individual health insurance or group, blanket, or franchise health insurance to contract with licensed health care providers for alternative rates of payment and to limit payments pursuant to a contract with the insured to rates charged by such providers or to services secured from such providers; providing that such contracts for alternative rates shall not be construed as a deceptive or unfair trade practice or as a violation of the antitrust laws; providing for an exception to health insurance contract language; providing for rules; providing for review of certain contracts; providing an effective date.

—was read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

**Amendment 1**—On page 25, strike all of lines 16-24 and renumber subsequent subsections

**Amendment 2**—On page 27, lines 21-30, and on page 28, lines 1 and 2, strike all of said language and renumber subsequent section

**Amendment 3**—On page 27, lines 21-30, and on page 28, lines 1 and 2, strike all of said lines and renumber subsequent section

**Amendment 4**—On page 25, strike all of lines 16-24

Senator W. D. Childers moved the following amendment which was adopted:

**Amendment 5**—On page 23, lines 6-9; on page 24, lines 26-30; on page 25, lines 1-24; on page 26, lines 17-21; on page 26, lines 28-31; and on page 27, lines 1-17, strike all of said lines

Senator D. Childers moved the following amendment which was adopted:

**Amendment 6**—On page 21, lines 30 and 31, and on page 22, lines 1-26, strike all of said language and renumber subsequent section

Senator Kirkpatrick moved the following amendment which was adopted:

**Amendment 7**—On page 28, between lines 2 and 3, insert:

Section 7. Paragraph (t) of subsection (1) of section 458.331, Florida Statutes, 1982 Supplement, is amended and subsection (5) is added to said section to read:

458.331 Grounds for disciplinary action; action by the board.—

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

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 768.45 when enforcing this paragraph. *As used in this paragraph, "repeated malpractice" includes but is not limited to any physician having two or more claims for medical malpractice within the previous 5-year period resulting in any indemnity being paid to the claimant in a judgment or settlement and which claims involved negligent conduct by the physician.*

(5) *Upon the board's receipt from the Department of Insurance of the name of a physician having two or more claims with indemnities within the previous 5-year period, the board shall investigate the occurrences upon which the claims were based and determine if action by it against the physician is warranted.*

Section 8. Section 627.912, Florida Statutes, 1982 Supplement, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) *Each self-insurer authorized under s. 627.356 or s. 627.357 and each Every insurer providing professional liability insurance to a practitioner of medicine licensed pursuant to the provisions of chapter 458, to a practitioner of osteopathic medicine licensed pursuant to the provisions of chapter 459, to a hospital as defined in s. 395.002(6), to an ambulatory surgical center as defined in s. 395.002(2), or to a member of The Florida Bar shall report periodically and in duplicate, but in no event less than once each year, to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:*

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department no later than March 15 of the year following the occurrence of one of the events listed in paragraphs (a), (b), and (c).

(2) The reports required by subsection (1) shall contain:

- (a) The name, address, and specialty coverage of the insured.
- (b) The insured's policy number.
- (c) The date of the occurrence which created the claim.
- (d) The date of suit, if filed.

(e) The date and amount of judgment or settlement, if any, *including the itemization of the verdict as required under s. 768.48, together with a copy of the settlement or judgment.*

(f) The date and reason for final disposition, if no judgment or settlement.

(g) A summary of the occurrence which created the claim. *If an indemnity has been paid to the claimant by a settlement or judgment, the summary shall include a detailed statement of the cause and nature of the occurrence and injury giving rise to the claim, including the location within the premises in which the claim arose and a statement of whether safety management steps have been taken to make similar occurrences or injuries less likely in the future and the nature of such steps.*

(h) *Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.*

(3) *Except as provided in subsection (4), ~~The department shall maintain~~ the reports filed in accordance with this section shall be maintained as confidential records. The reports shall be released only for bona fide research or educational purposes.*

(4) *The department shall screen the reports annually and send, to the Department of Professional Regulation and the Board of Medical Examiners, copies of the reports of any physicians or osteopaths having two or more claims with indemnities within the previous 5-year period. For purposes of hospital safety management, the department shall annually provide the Department of Health and Rehabilitative Services with copies of the reports in cases resulting in an indemnity being paid to the claimant.*

(5)(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them pursuant to this section.

Section 9. Section 768.047, Florida Statutes, is created to read:

768.047 Punitive Damages.—

(1) In order to constitute a cause of action for punitive damages a plaintiff must plead with particularity and prove by clear and convincing evidence specific facts which constitute fraud, malice, oppression, or willful, wanton, or reckless disregard of the rights of the plaintiff.

(2) When the defendant in an action for punitive damages questions whether the plaintiff has properly pleaded or has evidence to support such action, the defendant may file an appropriate motion with the court. The court shall, at or before the pretrial hearing, ascertain by examining the pleadings and the evidence before it whether the plaintiff will be able to submit clear and convincing evidence of specific facts constituting a cause of action for punitive damages. If the plaintiff does not establish that he will be able to submit such evidence, the court shall dismiss the plaintiff's claim for punitive damages without prejudice.

Section 10. Section 768.33, Florida Statutes, is created to read:

768.33 Alternative methods of payment of damage awards.—

(1) When the personal injury of a person is caused by the wrongful act, negligence, default, or breach of contract or warranty of any person in which the trier of fact determines that the amount necessary to compensate the claimant for future losses exceeds \$200,000, the court shall, at the request of either party, enter a judgment ordering the damages for future losses to be paid by periodic payments.

(a) When entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. To the extent possible the finding shall be based on the judgment creditor's annual needs. The total of the periodic payments shall equal the amount of all future damages before any reduction to present value. The period of time over which the periodic payments are to be made shall be the period of years determined by the trier of fact in its itemized verdict. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant. The judgment shall provide that all medical expenses incurred during any given period be paid by the defendant even though they exceed the specified payment. However, there shall be no requirement to pay more than the original lump-sum judgment before any reduction to present value, and, if any periodic payments exceed the amount specified by the judgment, successive payments shall be reduced accordingly until the entire judgment is paid.

(b) Before authorizing periodic payments of future damages, the court shall require the judgment debtor to post security adequate to assure full payment of damages awarded by the judgment. The security may include, but not be limited to, an annuity or a bond. If the judgment debtor fails or is unable to post the required security, the court shall order that all damages, both past and future, be paid to claimant in a lump sum. Upon termination of periodic payments of future damages, the court shall order the return of any remaining security to the judgment debtor.

(c) If the judgment debtor exhibits a continuing pattern of failing to make the required periodic payments, the court shall hold the judgment debtor in contempt and require that all remaining payments be made in a lump sum and may order the judgment debtor to pay the claimant all damages caused by such failure, including court costs and attorney's fees for each supplemental proceeding. If insolvency of the judgment debtor is proven to the court to be probable, the court may order that the balance of payments due be placed in trust for the benefit of the claimant.

(d) The judgment ordering the payment of future damages by periodic payments shall specify the recipient of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments are to be made. Such payments shall be subject to modification only as provided in this section.

(e) If a claimant who has been awarded damages to be paid by periodic payments dies prior to the termination of the period of years during which such payments are to be made, the liability of the defendant for amounts for future medical, surgical, x-ray, dental, rehabilitative services, including amounts for prosthetic devices, necessary ambulance, hospital, nursing services, drugs, therapy, pain and suffering, and other items of general damages shall cease, and the estate of the claimant shall have no claim for such amounts. In that event, the remaining balance of all amounts to be paid for lost wages or loss of earning capacity and other economic losses shall be paid to the estate of the claimant except payment of a lump sum is authorized if the parties agree to the amount thereof. If the claimant lives longer than the period of time in which such payments are to be made, the payments shall continue for the remainder of the claimant's life at the same rate as the payments being made at the time they would otherwise have terminated.

(f) Claimant's attorney's fee shall be payable from the judgment, based upon the total judgment. The attorney's fee may be paid in lump-sum or by periodic payment. The attorney's fee shall be paid from past and future damages in the same proportion, and the claimant's periodic payments shall be reduced by the amount of attorney's fees paid from future damages payable. However, if the attorney elects lump-sum payment, that portion of the fee attributable to future damages shall be based on the amount of future damages after reduction to present value.

(2) Nothing in this section shall preclude any other method of payment of awards, if such method is consented to by the parties.

Section 11. Section 768.36, Florida Statutes, is created to read:

768.36 Comparative negligence; elimination of joint and several liability.—

(1) The contributory negligence of a person does not bar such person or his legal representative from recovering damages for negligence resulting in death, personal injury, or property damage. However, the award of

damages to a person in an action shall be reduced in proportion to the amount of negligence attributed to him. If a person is claiming damages for a decedent's wrongful death, any negligence of the decedent shall be imputed to the claimant.

(2) If the negligence of more than one person is an issue, the jury shall return special verdicts, or in the absence of a jury the court shall make special findings, determining the percentage of negligence attributable to each of the persons and determining the total amount of damages sustained by each of the claimants, and the entry of judgment shall be made by the court.

(3) In any action in which the trier of fact finds that more than one person is negligent, each person shall be liable for only that proportion of the total dollar amount awarded as damages which his causal negligence bears to the amount of the causal negligence attributed to all persons involved in the occurrence giving rise to the action.

(4) This section applies to all causes of action pending on the effective date of this act wherein the doctrine of comparative negligence applies and to cases thereafter filed.

Section 12. Section 768.40, Florida Statutes, is amended to read:

768.40 Medical review committee, immunity from liability.—

(1) As used in this section;

(a) The term "medical review committee" or "committee" means a committee of a state or local professional society of health care providers or of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home, which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area.

(b) The term "health care providers" means physicians licensed under chapter 458, osteopaths licensed under chapter 459, podiatrists licensed under chapter 461, dentists licensed under chapter 466, chiropractors licensed under chapter 460, or pharmacists licensed under chapter 465.

(2)(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed medical review committee, or any health care provider furnishing any information, including information concerning the prescribing of substances listed in s. 893.03(2), to such committee, or any person, including any person acting as a witness, incident reporter to, or investigator for, a medical review committee, for any act or proceeding undertaken or performed within the scope of the functions of any such committee if the committee member or health care provider acts without malice or fraud. ~~The immunity provided to members of a duly appointed medical review committee shall apply only to actions by providers of health services, and in no way shall this section render any medical review committee immune from any action in tort or contract brought by a patient or his successors or assigns.~~

(b) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(3) Except as provided in subsection (2), this section shall not be construed to confer immunity from liability on any professional society or hospital or upon any health professional while performing services other than as a member of a medical review committee or upon any person, including any person acting as a witness, incident reporter to, or investigator for a medical review committee, for any act or proceeding undertaken or performed outside the scope of the functions of such committee. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital, professional society, or an individual health professional, such cause of action shall exist as if the preceding provisions had not been enacted.

(4) The proceedings and records of a committee ~~committees~~ as described in the preceding subsections shall not be subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of the matters which are the subject of evaluation and review by such committee, and no person who was in attendance at a meeting of such committee shall be permitted or required

to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, or other actions of such committee or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, nor should any person who testifies before such committee or who is a member of such committee be prevented from testifying as to matters within his knowledge, but the said witness cannot be asked about his testimony before such a committee or opinions formed by him as a result of said committee hearings.

Section 13. Subsection (5) is added to section 768.41, Florida Statutes, to read:

768.41 Internal risk management program.—

(5) *The Department of Health and Rehabilitative Services shall review reports furnished by the Department of Insurance to determine if the claims summaries contained in such reports reflect patterns of medical procedure or conduct which may give rise to adverse incidents, and shall notify hospitals, ambulatory surgical centers, health maintenance organizations, and other medical facilities of such patterns as they are identified. Annually, the Department of Health and Rehabilitative Services shall report to the Speaker of the House of Representatives and the President of the Senate the determinations reached pursuant to this subsection.*

Section 14. Section 395.0031, Florida Statutes, is created to read:

395.0031 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license as an ambulatory surgical center, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services, by one of the following methods:

(1) Post bond with the department and maintain the bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 15. Section 458.321, Florida Statutes, is created to read:

458.321 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license for the practice of medicine, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services, by one of the following methods:

(1) Post bond with the department and maintain a bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 16. Section 459.011, Florida Statutes, is created to read:

459.011 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license for the practice of osteopathic medicine, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services by one of the following methods:

(1) Post bond with the department and maintain a bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 17. Subsection (6) of section 458.319, Florida Statutes, is created to read:

458.319 Renewal of license.—

(6) *The license renewal fee for any licensee who does not practice in this state in a license year shall be \$500, which shall be deposited into the State Treasury in the Medical Education Trust Fund which is hereby created to be used for medical education in the medical schools at the University of Florida, the University of South Florida, and the University of Miami.*

Section 18. 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 applications 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.

(Renumber subsequent section.)

Senator D. Childers moved the following amendment which was adopted:

**Amendment 8**—In title, on page 1, line 3, strike “627.614” and on page 1, lines 17-19, strike “providing for an exception to health insurance contract language;”

Senator W. D. Childers moved the following amendment which was adopted:

**Amendment 9**—In title, on page 1, lines 13 and 14, strike “or to services secured from such providers” and on page 1, lines 19 and 20, strike “providing for rules; providing for review of certain contracts;”

Senator D. Childers moved the following amendment which was adopted:

**Amendment 10**—In title, on page 1, lines 19 and 20, strike “providing for review of certain contracts;”

On motion by Senator D. Childers, by two-thirds vote CS for CS for SB 132 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Jenne	Meek
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Neal
Carlucci	Girardeau	Kirkpatrick	Plummer
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Vogt
Crawford	Henderson	Maxwell	
Dunn	Hill	McPherson	

Nays—3

Langley	Thurman	Weinstein
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**CS for SB 563**—A bill to be entitled An act relating to carts, cases, baskets, and boxes; creating chapter 813, Florida Statutes, consisting of ss. 813.10-813.23, Florida Statutes, to be known as the “Carts, Cases, Baskets, and Boxes Act”; providing definitions; providing for the registration of names or marks for identification of dairy cases, egg baskets, and poultry boxes; providing for the illegal use of dairy cases, egg baskets, and poultry boxes; providing a penalty for unlawful possession of lost shopping carts, laundry carts, dairy cases, egg baskets, and poultry boxes; requiring bills of lading when transporting dairy cases, egg baskets, and

poultry boxes; providing criteria for the unlawful removal of dairy cases; providing for designation of owners of egg baskets; providing criteria for the illegal use of shopping carts and laundry carts; providing for the effect of deposits; providing a penalty; providing for the scope of the chapter; repealing s. 506.46, Florida Statutes, relating to the registration of brand names with respect to egg containers; repealing s. 506.47, Florida Statutes, relating to filing fees and issuance of certificates of recordation; repealing s. 506.48, Florida Statutes, relating to the illegal use of egg containers; repealing s. 506.49, Florida Statutes, relating to the possession of an egg container and required notice; repealing s. 506.50, Florida Statutes, relating to required bills of lading for transporting egg containers; repealing s. 506.51, Florida Statutes, relating to deposits upon egg containers; repealing s. 506.52, Florida Statutes, relating to penalties for offenses concerning egg containers; providing an effective date.

—was read the second time by title.

Four amendments were adopted to CS for SB 563 to conform the bill to CS for HB 821.

On motions by Senator Jennings, the rules were waived and by two-thirds vote CS for HB 821 was withdrawn from the Committees on Agriculture and Judiciary-Criminal.

On motion by Senator Jennings—

**CS for HB 821**—A bill to be entitled An act relating to carts, cases, baskets, and boxes; creating chapter 813, Florida Statutes, consisting of ss. 813.10-813.23, Florida Statutes, to be known as the “Carts, Cases, Baskets, and Boxes Act”; providing definitions; providing for the registration of names or marks for identification of shopping carts, laundry carts, dairy cases, egg baskets, and poultry boxes; providing for the illegal use of dairy cases, egg baskets, and poultry boxes; providing a penalty for unlawful possession of lost shopping carts, laundry carts, dairy cases, egg baskets, and poultry boxes; requiring bills of lading when transporting dairy cases, egg baskets, and poultry boxes; providing criteria for the unlawful removal of dairy cases; providing for designation of owners of egg baskets and poultry boxes; providing for the unlawful removal of egg baskets and poultry boxes; providing criteria for the illegal use of shopping carts and laundry carts; providing for the effect of deposits; providing a penalty; providing for the scope of the chapter; repealing s. 506.46, Florida Statutes, relating to the registration of brand names with respect to egg containers; repealing s. 506.47, Florida Statutes, relating to filing fees and issuance of certificates of recordation; repealing s. 506.48, Florida Statutes, relating to the illegal use of egg containers; repealing s. 506.49, Florida Statutes, relating to the possession of an egg container and required notice; repealing s. 506.50, Florida Statutes, relating to required bills of lading for transporting egg containers; repealing s. 506.51, Florida Statutes, relating to deposits upon egg containers; repealing s. 506.52, Florida Statutes, relating to penalties for offenses concerning egg containers; providing an effective date.

—a companion measure, was substituted for CS for SB 563 and read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 821 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—None

CS for SB 563 was laid on the table.

On motion by Senator Johnston, the rules were waived and by two-thirds vote HB 1079 was withdrawn from the Committee on Governmental Operations.

On motion by Senator Johnston—

**HB 1079**—A bill to be entitled An act relating to the Department of General Services; creating s. 255.291, Florida Statutes, creating the Architects Incidental Trust Fund; providing for purpose of the fund; providing for establishment of assessment rates; amending s. 255.04, Florida Statutes, prohibiting the use of proprietary specifications with respect to public buildings; providing an effective date.

—a companion measure, was substituted for SB 1072 and read the second time by title.

Senator Johnston moved the following amendments which were adopted:

**Amendment 1**—On page 1, lines 26 and 27, strike “subject to the approval of the Executive Office of the Governor” and insert: to be provided in the General Appropriations Act and statement of intent

**Amendment 2**—On page 2, lines 25-31, strike all of said lines and insert: *official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration or repair of any publicly owned facility shall specify the use of materials or systems by a sole source.*

**Amendment 3**—In title, on page 1, lines 8-10, strike all of lines 8 and 9 the word “buildings” on line 10 and insert: restricting use of sole source bids

On motion by Senator Johnston, by two-thirds vote HB 1079 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Grant	Langley	Rehm
Castor	Grizzle	Malchon	Scott
Childers, D.	Hair	Mann	Stuart
Childers, W. D.	Henderson	Margolis	Thomas
Crawford	Hill	Maxwell	Thurman
Dunn	Jenne	MEEK	Vogt
Fox	Jennings	Myers	Weinstein

Nays—None

SB 1072 was laid on the table.

On motion by Senator Johnston, the rules were waived and by two-thirds vote SB 666 was withdrawn from the Committee on Appropriations.

On motion by Senator Johnston, the rules were waived and by two-thirds vote CS for SB 1034 was withdrawn from the Committee on Appropriations.

**HB 1093**—A bill to be entitled An act relating to adoption; amending s. 409.166(1), (2)(a), (3)(b), and (4)(a), Florida Statutes, providing legislative intent; redefining the term “special needs child”; requiring an agreement between the Department of Health and Rehabilitative Services and the adoptive parents regarding maintenance subsidy; providing for the maximum amount of subsidy allowed; creating s. 409.167, Florida Statutes, establishing a statewide adoption exchange with a photo listing component; delineating responsibilities of the exchange; stating requirements for registration of children with the statewide exchange, regional exchange, and national exchange; providing authority for promulgation of rules; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 1093 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Fox	Henderson	Myers
Beard	Frank	Hill	Plummer
Carlucci	Gersten	Jenne	Scott
Castor	Girardeau	Jennings	Stuart
Childers, D.	Gordon	Langley	Thurman
Childers, W. D.	Grant	Mann	Vogt
Crawford	Grizzle	Margolis	Weinstein
Dunn	Hair	Meek	

Nays—None

On motions by Senator Gersten, the rules were waived and by two-thirds vote HB 1331 was withdrawn from the Committees on Natural Resources and Conservation, Rules and Calendar, and Appropriations.

On motion by Senator Gersten, by two-thirds vote—

**HB 1331**—A bill to be entitled An act relating to state and regional planning; providing a short title; amending s. 11.60, Florida Statutes, increasing the membership of the Administrative Procedures Committee and requiring the committee to review the state comprehensive plan, and changes therein, and to make recommendations to the Legislature; creating s. 23.01, Florida Statutes, providing legislative findings and intent; amending s. 23.0112, Florida Statutes, providing definitions; creating s. 23.01131, Florida Statutes, granting certain powers and responsibilities relating to state and regional planning to the Executive Office of the Governor; amending s. 23.0114(1), Florida Statutes, transferring subsection (4) thereof, and adding new subsections thereto; providing for the preparation of the state comprehensive plan and providing certain content thereof; providing restrictions upon capital outlay recommendations to the Legislature; amending s. 23.013, Florida Statutes, requiring the Executive Office of the Governor to prepare a proposed state comprehensive plan and providing for its adoption; providing for legislative review; providing for implementation of the plan; creating s. 23.0131, Florida Statutes, requiring state agencies to adopt state agency functional plans; creating s. 23.0132, Florida Statutes, requiring state agencies to prepare state agency functional plans consistent with the state comprehensive plan; providing for review thereof; amending s. 23.015, Florida Statutes, changing the purposes of the Governor’s annual report of the state’s economic condition; amending s. 160.01(4), Florida Statutes, requiring county membership in regional planning councils; amending s. 160.07, Florida Statutes, changing requirements and adoption procedures for comprehensive regional policy plans; creating s. 160.072, Florida Statutes, requiring certain review of such plans prior to adoption; creating s. 160.076, Florida Statutes, providing for periodic evaluation of such plans; creating the Growth Management Trust Fund and providing its purposes; repealing ss. 23.0115, 23.012, 23.0125, 23.014, 23.016, 23.0161, and 23.017, Florida Statutes, deleting provisions relating to the specification of data in the state comprehensive plan, to certain general powers and duties of the Executive Office of the Governor, to the development of certain environmental data, and to the preparation of the annual development program; deleting provisions relating to certain special reports of the Executive Office of the Governor and to required annual progress reports on state and regional planning; deleting authority to contract for assistance in preparation of reports; repealing s. 160.003(6), Florida Statutes, deleting the definition of the Department of Community Affairs in provisions relating to regional planning councils; providing an effective date.

—a companion measure, was substituted for CS for SB’s 963, 999, 1079 and 1098.

Further consideration of HB 1331 was deferred.

On motion by Senator Thomas, the Senate resumed consideration of—

**HB 1302**—A bill to be entitled An act relating to medical malpractice insurance; amending s. 627.351(4), Florida Statutes, 1982 Supplement; requiring the Florida Medical Malpractice Joint Underwriting Association to make certain levels of coverage available to physicians, osteopaths, podiatrists, hospitals, and ambulatory surgical centers; increasing potential assessments against members; providing immunity from suit to certain persons relating to actions taken in performance of duties; providing for departmental approval of rates; deleting obsolete language; amending s. 768.54(2) and (3), Florida Statutes, 1982 Supplement; permitting the Florida Patient’s Compensation Fund to reject certain risks; changing liability limits of the fund; increasing financial responsibility limits for hospitals not participating in the fund; increasing the fund entry level; providing for reimbursement of board members; providing immunity from liability for certain actions of board members and others; granting certain powers to the fund; requiring approval of fund membership fees and assessments by the Insurance Commissioner; providing that fund members must pay protested assessment prior to filing suit; removing limitations on deficit assessments to fund members; prohibiting execution against the fund due to insufficient assets; providing for stay of execution absent posting of supersedeas bond; providing for a stay of execution against fund members; providing for termination of coverage by the fund under certain conditions and for cessation of coverage by the fund; providing effective dates.

—which was read the third time by title, passed as amended and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gersten	Johnston	Plummer
Barron	Girardeau	Langley	Rehm
Beard	Gordon	Malchon	Scott
Castor	Grant	Mann	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	

Nays—None

On motion by Senator Scott, the rules were waived and the Senate reverted to—

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Curtis Peterson, President*

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

**SB 835**—A bill to be entitled An act relating to education; creating s. 236.135, Florida Statutes; providing that school districts may use the 2-mill equivalent capital outlay funds during the 1982-1983 fiscal year for maintenance of schools without having to maintain the required level of expenditures for operating revenues for maintenance of effort; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 1, lines 19-29, strike all of said lines and insert: district may, after public notice as required in 236.25(a)(c) conduct a public hearing announcing their intentions, and after the vote of the school board, use the two-mill equivalent capital outlay funds for salaries for personnel for the purpose of funding salary increases retroactively to the 1982-1983 fiscal year, which were promised to employees but unavailable because of the holdback in state funds. The use of two-mill capital outlay funds for this purpose shall not exceed revenues equal to the hold back in state funds experienced in each district during the 1982-83 fiscal year.

The authority for said action shall exist only for the 1983-1984 fiscal year.

**Amendment 2**—On page 1, line 17, insert after “Chapters”: 215, 216,

**Amendment 3**—On page 1, line 16, strike “1982-1983” and insert: 1983-1984

**Amendment 4**—In title, on page 1, lines 6-10, strike lines 6 through 10 and insert: fiscal year for retroactive salary purposes.

**Amendment 5**—In title, on page 1, line 5, strike “1982-1983,” and insert: 1983-1984

On motions by Senator Scott, the Senate concurred in the House amendments.

SB 835 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Johnston	Plummer
Barron	Girardeau	Kirkpatrick	Scott
Beard	Gordon	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Mann	Thurman
Childers, D.	Hair	Maxwell	Vogt
Childers, W. D.	Henderson	McPherson	Weinstein
Crawford	Hill	Meek	
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for SB 111**—A bill to be entitled An act relating to siting of electrical transmission lines; amending s. 403.521, Florida Statutes; providing legislative intent; amending s. 403.522, Florida Statutes; providing definitions; amending s. 403.523, Florida Statutes; providing powers and duties of the Department of Environmental Regulation; amending s. 403.524, Florida Statutes; providing exemptions; amending s. 403.525, Florida Statutes; providing for determination of application completeness and sufficiency; amending s. 403.526, Florida Statutes; providing for reports and studies of a proposed transmission line or corridor; amending s. 403.527, Florida Statutes; providing for public notice and parties to transmission line certification proceedings; providing for local public hearings and additional proceedings by the hearing officer; providing for proposal of alternate transmission line corridor routes; creating s. 403.5271, Florida Statutes, relating to informational public meetings; amending s. 403.5275, Florida Statutes; providing for amendments to an application for transmission line certification; amending s. 403.528, Florida Statutes, providing for objection to time limitation alterations; amending s. 403.529, Florida Statutes; providing for final disposition of an application by the siting board; amending s. 403.531, Florida Statutes; providing for the effect of certification; amending s. 403.5315, Florida Statutes; providing for modifications of certification; amending s. 403.537, Florida Statutes; providing for notice of determination of need for a proposed transmission line; amending s. 403.539, Florida Statutes, relating to eminent domain proceedings and attorney’s fees and costs; providing for application of the act; providing for effect on pending proceedings; adding s. 380.06(24), Florida Statutes; exempting certain power plants and transmission lines; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 29, line 4, strike the word “or” and insert: except that Section 366.076, Florida Statutes, is created to read: 366.076 Limited Proceedings.—Upon petition or by its own motion, the commission may conduct limited proceedings to consider, and act upon, any matter within its jurisdiction, including any matter the resolution of which requires a public utility to adjust its rates consistent with the provisions of this chapter. The commission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other matters. Also, the Commission may adopt rules for the determination of rates in full revenue requirement proceedings which provide for adjustments of rates based on revenues and costs during the period new rates are to be in effect and provide for incremental adjustments in rates for subsequent periods. This part shall also not in any way affect

**Amendment 2**—On page 2, in the title, line 2, after the word “certification,” insert: creating s. 366.076, Florida Statutes; authorizing limited regulatory proceedings, also authorizing rulemaking authority;

On motions by Senator Carlucci, the Senate concurred in the House amendments.

CS for SB 111 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gersten	Jennings	Plummer
Beard	Girardeau	Johnston	Rehm
Carlucci	Gordon	Kirkpatrick	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Hill	Meek	Weinstein
Frank	Jenne	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

On motion by Senator Henderson, the rules were waived and by two-thirds vote HB 1076 was withdrawn from the Committee on Appropriations.

On motions by Senator Henderson, by two-thirds vote—

**HB 1076**—A bill to be entitled An act relating to purchase of motor vehicles by state officials and employees; amending s. 116.12, Florida Statutes; providing legislative intent; providing a definition; providing that it is unlawful for any state officer or employee to authorize purchase or continuous lease of a motor vehicle except under certain conditions; providing exemption under certain circumstances; providing for retention of motor vehicles by state agencies under certain conditions; prohibiting acquisition of a motor vehicle by a certain deferred payment contract; providing an exception; providing an effective date.

—a companion measure, was substituted for CS for SB 35 and read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1076 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Jenne	Neal
Barron	Gersten	Jennings	Plummer
Beard	Girardeau	Johnston	Rehm
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thurman
Childers, W. D.	Grizzle	Mann	Vogt
Crawford	Hair	McPherson	Weinstein
Dunn	Henderson	Meek	
Fox	Hill	Myers	

Nays—None

CS for SB 35 was laid on the table.

On motions by Senator Henderson, the rules were waived and by two-thirds vote CS for HB 1255 was withdrawn from the Committees on Governmental Operations and Appropriations.

On motion by Senator Henderson, by two-thirds vote—

**CS for HB 1255**—A bill to be entitled An act relating to the use of state motor vehicles and aircraft; adding subsections (5) - (9) to s. 14.071, Florida Statutes, relating to the Department of Law Enforcement; requiring security and transportation for certain persons; providing criteria for such services; providing for coordination of such services; requiring a semiannual report; amending s. 106.15(2), Florida Statutes; providing for reimbursement of certain aircraft expenses; amending s. 287.16(8), Florida Statutes, relating to powers and duties of the Division of Motor Pool of the Department of General Services; providing for the development of a reporting system with respect to certain law enforcement vehicles; amending s. 287.161(2) and (3), Florida Statutes; providing that fees for persons receiving transportation from the executive aircraft pool be based on the mileage allowance which is provided by law for privately owned vehicles; providing for the use of fees collected; amending s. 287.17, Florida Statutes; establishing criteria for determining the appropriate use of motor vehicles and aircraft; creating s. 287.175, Florida Statutes; establishing penalties for violation of statutes and rules relating to motor vehicle and aircraft use; amending s. 287.20, Florida Statutes, providing for applicability of motor pool provisions to certain state agencies; providing an effective date.

—a companion measure, was substituted for CS for SB 28 and read the second time by title. On motion by Senator Henderson, by two-thirds vote CS for HB 1255 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Jennings	Plummer
Barron	Gersten	Johnston	Rehm
Beard	Girardeau	Kirkpatrick	Stuart
Carlucci	Gordon	Langley	Thomas
Castor	Grant	Mann	Thurman
Childers, D.	Grizzle	Maxwell	Vogt
Childers, W. D.	Hair	McPherson	Weinstein
Crawford	Henderson	Meek	
Dunn	Hill	Myers	
Fox	Jenne	Neal	

Nays—None

CS for SB 28 was laid on the table.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 3 and 4 and passed HB 680 as amended; has refused to concur in Senate Amendments 2 and 5 and requests the Senate to recede.

*Allen Morris, Clerk*

**HB 680**—A bill to be entitled An act relating to tax on sales, use and other transactions; adding new paragraph (b) to s. 212.06(5), Florida Statutes, 1982 Supplement; exempting sales of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration if the property is to be transported outside of the state for resale; requiring such nonresident dealers to furnish a statement declared to be true under penalty of perjury; providing duties of the seller; providing an effective date.

On motions by Senator Gersten, the Senate receded from Senate Amendments 2 and 5.

HB 680 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Girardeau	Kirkpatrick	Rehm
Beard	Gordon	Langley	Stuart
Castor	Grant	Mann	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	
Gersten	Johnston	Plummer	

Nays—None

On motion by Senator Thomas, by two-thirds vote—

**CS for SB 208**—A bill to be entitled An act relating to service warranty associations; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 634.401-634.409, 634.411-634.417, and 634.419-634.431, Florida Statutes; relating to the regulation of service warranty associations; amending ss. 634.401(2), (9), (14), Florida Statutes, 1982 Supplement, ss. 634.404, 634.405, 634.406, 634.407(4), 634.408, 634.409(1), (2)(a), (d), 634.412(3), (4), 634.413, 634.415(3), 634.416, 634.417, 634.420, 634.421, 634.423, 634.424, 634.425, 634.426(1), 634.427, 634.429, Florida Statutes; adding ss. 634.401(17), 634.409(2)(f), Florida Statutes; adding s. 634.422(11), Florida Statutes; creating ss. 634.4145, 634.4165, 634.432, 634.434-634.443, Florida Statutes; providing definitions; providing that license issuance requirements apply to license renewals; deleting obsolete language; providing deposit requirements for warrantors; phasing out letters of credit used in place of deposits; permitting the purchase of contractual liability insurance instead of maintaining an unearned premium reserve; providing that license application fees be nonrefundable upon denial of license; providing conforming language; providing grounds for refusal, suspension, or revocation of license; deleting requirement for notification of license reinstatement; providing grounds for disapproval of forms; providing grounds for waiver of examination requirement; requiring office records; providing for service of process; providing for biennial registration of sales representatives; prohibiting the reissuance of a registration revoked twice; providing administrative fines; requiring that the department be notified before merger or consolidation of warranty associations; providing that active department investigations are confidential pending completion; prohibiting unfair methods of competition and unfair acts; authorizing the department to investigate such practices; requiring the department to conduct hearings; providing for cease and desist orders; providing administrative penalties; providing for appeals; providing for injunctive relief; providing that department action does not abrogate other remedies; allowing to stand repealed pursuant to the Regulatory Sunset Act, ss. 634.410, 634.418, Florida Statutes; relating to license suspension procedures and serving process; providing for legislative review; providing retroactivity; providing an effective date.

—was removed from the table and read the second time by title.

Senators Margolis and Thomas offered the following amendments which were moved by Senator Thomas and adopted:

**Amendment 1**—On page 1, strike everything after the enacting clause and insert:

Section 1. Subsections (2), (9), and (14) of section 634.401, Florida Statutes, 1982 Supplement, are amended, and subsection (17) is added to said section to read:

634.401 Definitions.—As used in this part:

(2) "Service warranty" means any warranty, guaranty, extended warranty or extended guaranty, contract agreement, or other written promise under the terms of which there is an undertaking to indemnify against the cost of repair or replacement of a consumer product in return for the payment of a segregated charge by the consumer; however, maintenance service contracts under the terms of which there are no provisions for such indemnification, *motor vehicle service agreements, and automobile and home warranties* subject to regulation under parts I and II of this chapter are expressly excluded from this definition. However, "service warranty" shall not include service contracts entered into between consumers and nonprofit organizations or cooperatives the members of which consist of condominium associations and condominium owners, which contracts require the performance of repairs and maintenance of appliances or maintenance of the residential property.

(9) "Premium" means the total consideration received or to be received by *whatever name called*, by an insurer or service warranty association for, or related to, the issuance and delivery of a service warranty, including any charges designated as assessments or fees for membership, policy, survey, inspection, service or other charges. However, a repair charge is not a premium unless it exceeds the usual and customary repair fee charged by the association, provided the repair is made prior to the issuance and delivery of the warranty.

(14) "Net assets" means the amount by which the total assets of an association, excluding goodwill, franchises, customer lists, patents or trademarks, and receivables from or advances to officers, directors, employees, salesmen, and affiliated companies, exceed the total liabilities of the association. For purposes of this definition, the term "total liabilities" does not include capital stock, paid in capital, or retained earnings the capital and surplus of an association.

(17) "Insurance code" means the Florida Insurance Code as defined in s. 624.01.

Section 2. Section 634.404, Florida Statutes, is amended to read:

634.404 Qualifications for license.—The department shall not issue or renew a license to any service warranty association unless the association:

- (1) Is a solvent association.
- (2) Furnishes the department with evidence satisfactory to it that the management of the association is competent and trustworthy and can successfully manage the association's affairs in compliance with law.
- (3) Proposes to use and uses in its business a name, together with a trademark or emblem, if any, which is distinctive and not so similar to the name or trademark of any other person already doing business in this state as will tend to mislead or confuse the public.
- (4) Makes the deposit or files the bond or letter of credit required under s. 634.405.
- (5) Is formed under the laws of Florida or another state, district, territory, or possession of the United States, if the association is other than a natural person.

Section 3. Section 634.405, Florida Statutes, is amended to read:

634.405 Required deposit or, bond, or letter of credit.—

(1) To assure the faithful performance of its obligations to its members or subscribers in the event of insolvency, each service warranty association shall, prior to the issuance of its license by the department and during such time as the association may have premiums in force in this state, deposit and maintain securities of the type eligible for deposit by insurers under s. 625.52. Whenever the market value of the securities deposited with the department is less than 95 percent of the amount required, the association shall deposit additional securities or otherwise increase the deposit to the amount required. Such, which securities shall have at all times a market value as follows:

(a) Warrantors.—

1. Any warrantor which:

- a. Was licensed under this part prior to October 1, 1983;
- b. Was transacting service warranty business in this state prior to June 14, 1978;
- c. Has continuously transacted service warranty business in this state since June 14, 1978; and
- d. Has not during any year since June 14, 1978, written more than \$100,000 of gross written premiums,

shall place and maintain in trust with the department an amount equal to 50 percent of the gross written premium in force.

2. A warrantor which has \$300,000 or less of gross written premiums in this state and to which the provisions of subparagraph 1. do not apply shall place and maintain in trust with the department an amount not less than \$50,000. A new warrantor, prior to the issuance of its license and before receiving any premiums, shall place and maintain in trust with the department the amount of \$50,000.

~~1. Any warrantor which has transacted no service warranty business in this state prior to June 14, 1978, shall, prior to the issuance of its license and before receiving any premiums, place in trust with the department an initial amount of \$50,000.~~

~~2. A warrantor which has less than \$300,000 of gross written premiums shall place in trust with the department an amount equal to 50 percent of the gross premiums in force or \$50,000, whichever is less.~~

3. A warrantor which has more than \$300,000 but less than \$750,000 of gross written premiums in this state shall place and maintain in trust with the department an amount not less than \$75,000.

4. A warrantor which has \$750,000 or more of gross written premiums in this state shall place and maintain in trust with the department an amount equal to \$100,000.

5. All warrantors, upon receipt of written notice from the department, shall have 30 calendar days in which to make additional deposits.

(b) Warranty sellers.—

~~1. A warranty seller licensed after June 14, 1978, shall, prior to the issuance of its license, place in trust with the department an amount not less than \$100,000.~~

~~2. Any warranty seller licensed under part II of this chapter prior to June 14, 1978, shall be required to deposit an amount equal to \$75,000 by October 1, 1978, and \$100,000 by October 1, 1979.~~

(2) In lieu of any deposit of securities required under subsection (1) and subject to the department's approval, the service warranty association may file with the department a surety bond issued by an authorized surety insurer or an irrevocable letter of credit from a state or federally chartered bank located in this state. The letter of credit or bond shall be for the same purpose as the deposit in lieu of which it is filed. The department shall not approve any bond or letter of credit under the terms of which the protection afforded against insolvency is not equivalent to the protection afforded by those securities provided for in subsection (1). When a letter of credit or bond is deposited in lieu of the required securities, no warranties may be written which provide coverage for a time period beyond the duration of such letter of credit or bond. The bond shall guarantee that the service warranty association shall faithfully and truly perform all the conditions of any service warranty contract. No such bond shall be cancelled or be subject to cancellation unless at least 60 days' advance notice thereof, in writing, is filed with the department. In the event that notice of termination of the bond is filed with the department, the service warranty association insured thereunder shall, within 30 days of the filing of notice of termination, provide the department with a replacement bond meeting the requirements of this part, or deposit additional securities as required under subsection (1). Cancellation of a bond shall not relieve the obligation of the issuer of the bond for claims arising out of contracts issued prior to cancellation of the bond unless a replacement bond or securities are filed. In no event shall the issuer's liability under the bond exceed the face amount of the bond. If within 30 days of filing the notice of termination, no replacement bond or additional security is provided, the department shall suspend the association's license until the deposit requirements are satisfied.

(3) In lieu of any deposit of securities required under subsection (1) or the bond required under subsection (2), and subject to the department's approval, a warrantor, which has less than \$50,000 in gross written premiums as reflected in its most recent financial statement, may maintain an escrow trust account with a bank or other recognized depository in Florida into which shall be deposited unearned service warranty premiums. Seventy-five percent of first-year premiums and 100 percent of subsequent-year premiums paid for multi-year contracts shall be deposited. No more than one-twelfth of the total amount of first-year premiums on deposit shall be withdrawn in any one calendar month. No more than one-twelfth of the total annual unearned premium for the current contract year shall be withdrawn in any one calendar month.

(4)(3) Securities and, bonds, and letters of credit posted by an association pursuant to this section shall be for the benefit of and subject to action thereon, in the event of insolvency or impairment of any association or insurer, by any person or persons sustaining an actionable injury due to the failure of the association to faithfully perform its obligations to its warranty holders.

(5)(4) The state shall be responsible for the safekeeping of all securities deposited with the department under this part. Such securities shall not, on account of being in this state, be subject to taxation, but shall be held exclusively and solely to guarantee the association's faithful performance of its obligations to its members or subscribers.

(6)(5) The depositing association shall, during its solvency, have the right to exchange or substitute other securities of like quality and value for securities on deposit, to receive the interest and other income accruing to such securities, and to inspect the deposit at all reasonable times.

(7)(6) Such deposit or, bond, or letter of credit shall be maintained unimpaired as long as the association continues in business in this state. Whenever the association ceases to do business in this state and furnishes the department proof satisfactory to the department that it has discharged or otherwise adequately provided for all its obligations to its members or subscribers in this state, the department shall release the deposited securities to the parties entitled thereto, on presentation of the department's receipts for such securities, or shall release any bond or letter of credit filed with it in lieu of such deposit.

(8) A service warranty association utilizing a letter of credit on October 1, 1982, entirely or in part for the deposit required by this section may continue to utilize the letter of credit entirely or in part for the deposit only until the letter of credit expires or until July 1, 1984, whichever occurs first.

Section 4. Section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force, wherever written. Such assets shall be held as prescribed under ss. 625.301-625.340. In the case of multiyear contracts offered by associations having net assets of less than \$500,000 and for which premiums are collected in advance for coverage in a subsequent year, 100 percent of the premiums for such subsequent years shall be placed in the funded, unearned premium reserve account.

(2) An association shall not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the department that 100 percent of its claim exposure is covered by such policy. The contractual liability insurance shall be obtained from an insurer that holds a certificate of authority to do business within the state or from an insurer approved by the department as financially capable of meeting the obligations incurred pursuant to the policy. For the purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the service warranty association is unable to fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy or dissolution, the contract liability insurer will pay losses and unearned premiums under such plans directly to the person making a claim under the contract.

(b) The insurer issuing the contractual liability policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy shall not be canceled or nonrenewed by either the insurer or the association unless 60 days' written notice thereof has been given to the department by the insurer prior to the date of such cancellation or nonrenewal.

(3)(2) No warrantor shall allow its gross written premiums to exceed a 7 to 1 ratio to net assets.

(4)(3) No warranty seller shall allow its gross written premiums to exceed a 5 to 1 ratio to net assets.

Section 5. Subsection (4) of section 634.407, Florida Statutes, is amended to read:

634.407 Application for and issuance of license.—

(4) Upon completion of the application for license, the department shall examine the same and make such further investigation of the applicant as it deems advisable. If it finds that the applicant is qualified therefor, the department shall issue to the applicant a license as a service warranty association. If the department does not find the applicant to be qualified, it shall refuse to issue the license and shall give the applicant written notice of such refusal, setting forth the grounds therefor. Any such notice of refusal shall be accompanied by refund of the annual license fee tendered in connection with the application.

Section 6. Section 634.408, Florida Statutes, is amended to read:

634.408 License expiration; renewal.—Each license issued to a service warranty association under this part shall expire on June 1 September 30 next following the date of issuance. If the association is then qualified therefor under the provisions of this part, its license may be renewed annually, upon its request, and upon payment to the department of the license fee in the amount of \$200 in advance for each such license year.

Section 7. Subsection (1) and paragraphs (a) and (d) of subsection (2) of section 634.409, Florida Statutes, are amended, and paragraph (f) is added to said subsection to read:

634.409 Grounds for suspension or revocation of license.—

(1) The license of any service warranty association may be revoked or suspended, or the department may refuse to renew any such license, if it is determined that the association has violated any lawful rule or order of the department or any provision of this part.

(2) The license of any service warranty association shall be suspended or revoked if it is determined that such association:

(a) Is in an unsound financial condition, or is in such condition, or using such methods and practices in the conduct of its business, as would render its further transaction of service warranties in this state hazardous or injurious to its warranty holders or to the public.

(d) Has, with such frequency as to indicate its general business practice in this state, and without just cause, refused to pay proper claims arising under its service warranties, or, without just cause, has compelled warranty holders to accept less than the amount due them, or to employ attorneys, or to bring suit against the association to secure full payment or settlement of such claims.

(f) Is using such methods or practices in the conduct of its business as would render its further transaction of service warranties in this state hazardous or injurious to its warranty holders or to the public.

Section 8. Subsections (3) and (4) of section 634.412, Florida Statutes, are amended to read:

634.412 Duration of suspension; association's obligations during suspension; reinstatement.—

(3) Upon expiration of the suspension period, if within such period the license has not otherwise terminated, the association's license shall automatically be reinstated, unless it is determined, upon notice and hearing, that the causes of the suspension have not been removed, or that the association is otherwise not in compliance with the requirements of this part.

(4) Upon reinstatement of the association's license, or upon reinstatement of the certificate of authority of an insurer, following suspension, the authority of the association's sales representatives in this state to represent the association or insurer shall likewise be reinstated. The department shall promptly notify the association and its sales representatives in this state, which are of record in its office, of such reinstatement.

Section 9. Section 634.413, Florida Statutes, is amended to read:

634.413 Administrative fine in lieu of suspension or revocation.—~~If, upon notice and hearing as provided for in s. 634.410, the department finds that one or more grounds exist for the discretionary revocation or suspension of a certificate of authority issued under this part, the department may, in lieu of such suspension or revocation, impose a fine upon the insurer or service warranty association in an amount not to exceed \$1,000 per violation; however, if it is found that an insurer or service warranty association has knowingly and willfully violated a lawful rule or order of the department or a provision of this part, the department may impose a fine upon the insurer or association in an amount not to exceed \$10,000 for each violation.~~

Section 10. Section 634.4145, Florida Statutes, is created to read:

634.4145 Grounds for disapproval of forms.—The department shall disapprove any form filed under s. 634.312 if the form:

- (1) Violates this part,
- (2) Is misleading in any respect, or
- (3) Is reproduced so that any material provision is substantially illegible.

Section 11. Subsection (3) of section 634.415, Florida Statutes, is amended to read:

634.415 Tax on premiums ~~and assessments~~; annual statement; reports; quarterly statements.—

(3) ~~The department may levy a fine of up to \$100 a day for each day an association neglects to file the annual statement in the form and within the time provided by this part. Any association or insurer neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the department to that effect, its authority to do business in this state shall cease while such default continues. The department shall deposit all sums collected by it under this section to the credit of the Insurance Commissioner's Regulatory Trust Fund.~~

Section 12. Section 634.416, Florida Statutes, is amended to read:

634.416 Examination of associations.—Service warranty associations licensed under this part shall be subject to periodic examination by the department, in the same manner and subject to the same terms and conditions that apply to insurers under part II of chapter 624. *However, the rate charged service warranty associations by the department for examinations may be adjusted to reflect the amount collected for the 10-K filing fee as provided herein. On or before May 1 of each year, an association may submit to the department Form 10-K, as filed with the United States Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended. Upon receipt and review of the most current Form 10-K, the department may waive the examination requirement; if the department determines not to waive the examination, such examination shall be limited to that necessary to ensure compliance with this part. The Form 10-K shall be accompanied by a filing fee of \$2,000 to be deposited into the Insurance Commissioner's Regulatory Trust Fund. The department shall not be required to examine an association that has less than \$20,000 in gross written premiums as reflected in its most recent annual statement. The department may examine such an association if it has reason to believe that the association may be in violation of this part or is otherwise in an unsound financial condition. If the department examines an association that has less than \$20,000 in gross written premiums, the examination fee may not exceed 5 percent of the association's gross written premiums.*

Section 13. Section 634.4165, Florida Statutes, is created to read:

634.4165 Office records required.—As a minimum requirement for permanent office records, each licensed service warranty association shall maintain:

- (1) A complete set of accounting records, including, but not limited to, a general ledger, cash receipts and disbursements journals, accounts receivable registers, and accounts payable registers.
- (2) A detailed warranty register of warranties in force, by unique identifier. The register shall include the unique identifier, date of issue, issuing sales representative, name of warranty holder, location of the property, warranty period, gross premium, commission to sales representatives and net premium.

(3) A detailed centralized claims or service records register which shall include the unique identifier, date of issue, date of claim, issuing service representative, amount of claim or service, date claim paid, and, if applicable, disposition other than payment and reason therefor.

Section 14. Section 634.417, Florida Statutes, is amended to read:

(*Substantial rewording of 634.417. See s. 634.417, F.S., for present text.*)

634.417 Service of process.—Service warranty associations shall be subject to service of process in the same manner and subject to the same terms, conditions, and fees as apply to insurers under chapter 624.

Section 15. Section 634.420, Florida Statutes, is amended to read:

634.420 Sales representatives to be registered.—Each service warranty association or insurer shall, on forms prescribed by the department, register, on or before October 1 of each *even-numbered* year, the name and business address of each sales representative utilized by it in Florida and shall, within 30 days after termination of the contract, notify the department of such termination. At the time of *biennial* ~~said annual~~ registration, a ~~\$40~~ *\$20* filing fee for each sales representative shall be paid by the service warranty association or insurer to the department. Any sales representative utilized subsequent to the October 1 filing date shall be registered with the department within 10 days after such utilization. No employee or sales representative of a service warranty association or insurer shall directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified and licensed therefor under the Insurance Code.

Section 16. Section 634.421, Florida Statutes, is amended to read:

634.421 Reporting and accounting for funds.—

(1) All funds belonging to insurers, service warranty associations, or others received by a sales representative in transactions under his registration shall be trust funds so received by such agent in a fiduciary capacity, and the agent in the applicable regular course of business shall account for and pay the same to the insurer, association, warranty holder, or other person entitled thereto.

(2) Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use is guilty of ~~theft~~ *larceny*, punishable as provided in s. ~~812.014~~ *s. 812.021*.

Section 17. Subsection (11) is added to section 634.422, Florida Statutes, to read:

634.422 Grounds for compulsory refusal, suspension, or revocation of registration of sales representatives.—The department shall deny, suspend, revoke, or refuse to renew or continue the registration of any sales representative if it is found that, as to the representative, any one or more of the following applicable grounds exist:

(11) *He has been found guilty of or has pleaded nolo contendere to a felony, in this state or any other state, which involves moral turpitude, without regard to whether judgment of conviction has been entered by the court having jurisdiction of such case.*

Section 18. Section 634.423, Florida Statutes, is amended to read:

634.423 Grounds for discretionary refusal, suspension, or revocation of registration of sales representatives.—The department may deny, suspend, revoke, or refuse to renew or continue the registration of any sales representative if it is found, ~~after notice and hearing thereon as provided in s. 634.424~~, that as to the representative any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.422:

- (1) Any cause for which granting of the registration could have been refused had it then existed and been known to the department.
- (2) Violation of any provision of this part, or of any other law applicable to the business of service warranties, in the course of dealings under the registration.
- (3) Violation of any lawful order or rule of the department.
- (4) Failure or refusal to pay over, upon demand, to any service warranty association or insurer he represents or has represented any money coming into his hands belonging to the association or insurer.

(5) In the conduct of business under the registration, he has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part VII of chapter 626, or has otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest.

(6) *He has been found guilty of, or has pleaded guilty or nolo contendere to, a felony, in this state or any other state, without regard to whether judgment of conviction has been entered by the court having jurisdiction of such case. Conviction of a felony.*

Section 19. Section 634.424, Florida Statutes, is amended to read:

634.424 Procedure for refusal, suspension, or revocation of registration of sales representatives.—

(1) If any sales representative is convicted by a court of a violation of any provision of this part, the registration of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the department.

~~(2) As to a registration denied, suspended, or revoked by the department, the person aggrieved thereby shall have the right to a hearing thereon pursuant to chapter 120.~~

(2)(3) If, after an investigation or upon other evidence, the department has reason to believe that there may exist any one or more grounds for the suspension, revocation, or refusal to renew or continue the registration of any sales representative, as such grounds are specified in ss. 634.422 and 634.423, the department may proceed to suspend, revoke, or refuse to renew or continue the registration, as the case may be.

(3) *If a registered sales representative also holds a license to perform professional services of the type covered by the service warranty issued, the department shall file a recommendation with the regulatory authority issuing such license that any such license held be suspended or revoked. Such regulatory authority shall promptly review the recommendation and take appropriate action in accordance with its laws and rules to suspend or revoke such license.*

(4) Whenever it appears that any licensed insurance agent has violated the provisions of this part, the department may take such action relative thereto as is authorized by the Insurance Code as for a violation of the Insurance Code by such agent.

Section 20. Section 634.425, Florida Statutes, is amended to read:

634.425 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a registration, specify the *time* period during which the suspension is to be in effect, ~~but~~ Such period shall not exceed 1 year. The registration shall remain suspended during the period so specified, subject to any rescission or modification of the order by the department prior to expiration of the suspension period. A registration which has been suspended shall not be reinstated except upon request for such reinstatement, but the department shall not grant such reinstatement if it finds that the ~~circumstance~~ ~~or~~ ~~circumstances~~ for which the registration was suspended still exist or are likely to recur.

(2) No person whose registration has been revoked by the department shall have the right to apply for another registration within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. The department, however, shall not grant a new registration if it finds that the circumstance or circumstances for which the previous registration was revoked still exist or are likely to recur.

(3) *The department shall not grant or issue any registration to any individual whose registration has been twice revoked. If registrations as to the same person have been revoked at two separate times, the department shall not thereafter grant or issue any registration as to such person.*

(4) During the period of suspension, or after revocation of the registration, the former registrant shall not engage in or attempt to ~~profess to~~ engage in any transaction or business for which a registration is required under this part.

Section 21. Subsection (1) of section 634.426, Florida Statutes, is amended to read:

634.426 Administrative fine in lieu of suspension or revocation of registration.—

(1) If, pursuant to procedures provided for in this part, it is found that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any registration issued under this act, on a first offense and except where such suspension, revocation, or refusal is mandatory, an order may be entered imposing upon the registrant, in lieu of such suspension, revocation, or refusal, an administrative penalty for each violation in the amount of \$100, or in the event of willful misconduct or willful violation on the part of the registrant, an administrative fine ~~not to exceed \$1,000 of \$500~~ for each violation. The administrative penalty may be augmented by an amount equal to any commissions received by or accruing to the credit of the registrant in connection with any transaction to which the grounds for suspension, revocation, or refusal are related.

Section 22. Section 634.427, Florida Statutes, is amended to read:

634.427 Disposition of taxes and fees.—All license fees, taxes on premiums and assessments, registration fees, and administrative fines and penalties collected under this part from service warranty associations and sales representatives shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund.

Section 23. Section 634.429, Florida Statutes, is amended to read:

634.429 Fronting not permitted.—No authorized insurer or licensed service warranty association shall act as a fronting company for any unauthorized insurer or unlicensed service warranty association. A fronting company is an authorized insurer or licensed service warranty association which, by reinsurance or otherwise, generally transfers to one or more unauthorized insurers or unlicensed service warranty associations substantially all of the risk of loss under warranties written by it in this state.

Section 24. Section 634.432, Florida Statutes, is created to read:

634.432 Acquisition of association.—No person may merge or consolidate with or obtain control of a service warranty association unless prior documentation is filed with the department demonstrating that the requirements for issuance of a license under this part will be satisfied.

Section 25. Section 634.434, Florida Statutes, is created to read:

634.434 Investigative records.—All active examination or investigation records of the department made or received pursuant to this part shall be deemed privileged and confidential and shall not be subject to public inspection under the provisions of chapter 119 for so long as reasonably necessary to complete the examination or investigation.

Section 26. Section 634.435, Florida Statutes, is created to read:

634.435 Unfair methods of competition and unfair or deceptive acts or practices prohibited.—No person shall engage in this state in any trade practice which is defined in this part as, or determined pursuant to s. 634.437 to be, an unfair method of competition or an unfair deceptive act or practice involving the business of service warranty.

Section 27. Section 634.436, Florida Statutes, is created to read:

634.436 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(1) MISREPRESENTATION AND FALSE ADVERTISING OF INSURANCE POLICIES.—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any service warranty contract.

(b) Is misleading, or is a misrepresentation as to the financial condition of any person.

(c) Uses any name or title of any contract misrepresenting the true nature thereof.

(d) Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any service warranty contract.

(2) FALSE INFORMATION AND ADVERTISING GENERALLY.—Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

- (a) In a newspaper, magazine, or other publication,
- (b) In the form of a notice, circular, pamphlet, letter, or poster,
- (c) Over any radio or television station, or
- (d) In any other way,

an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of service warranty, which is untrue, deceptive, or misleading.

(3) **DEFAMATION.**—Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of, or derogatory to, any person and which is calculated to injure such person.

(4) **FALSE STATEMENTS AND ENTRIES.**—

(a) **Knowingly:**

- 1. Filing with any supervisory or other public official,
- 2. Making, publishing, disseminating, or circulating,
- 3. Delivering to any person,
- 4. Placing before the public,
- 5. Causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or place before the public, any false statement.

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person.

(5) **UNFAIR CLAIM SETTLEMENT PRACTICES.**—

(a) Attempting to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the warranty holder;

(b) A material misrepresentation made to the warranty holder for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract on less favorable terms than those provided in, and contemplated by, such contract; or

(c) Committing or performing with such frequency as to indicate a general business practice any of the following:

- 1. Failure to properly investigate claims;
- 2. Misrepresentation of pertinent facts or contract provisions relating to coverages at issue;
- 3. Failure to acknowledge and act promptly upon communications with respect to claims;
- 4. Denial of claims without conducting reasonable investigations based upon available information;
- 5. Failure to affirm or deny coverage of claims upon written request of the warranty holder within a reasonable time after proof-of-loss statements have been completed; or
- 6. Failure to promptly provide a reasonable explanation to the warranty holder of the basis in the contract in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement.

(6) **FAILURE TO MAINTAIN COMPLAINT-HANDLING PROCEDURES.**—Failure of any person to maintain a record of all the complaints received for a 3-year period after the date of the receipt of a written complaint.

(7) **REFUSAL TO ISSUE A CONTRACT.**—The refusal to issue a contract solely because of an individual's race, color, creed, marital status, sex, or national origin.

Section 28. Section 634.437, Florida Statutes, is created to read:

634.437 **Power of department.**—The department shall have the power to examine and investigate the affairs of every person involved in the business of service warranty in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 634.435.

Section 29. Section 634.438, Florida Statutes, is created to read:

634.438 **Defined practices; hearings, witnesses, appearances, production of books, and service of process.**—

(1) Whenever the department has reason to believe that any person has engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice as defined in s. 634.436, or is engaging in the business of service warranty without being properly licensed as required by this part, and that a proceeding by it in respect thereto would be to the interest of the public, it shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(2) The department or a duly empowered hearing officer shall, during the conduct of such hearing, have those powers enumerated in s. 120.58; however, the penalties for failure to comply with a subpoena or with an order directing discovery shall be limited to a fine not to exceed \$1,000 per violation.

(3) Statements of charges, notices, and orders under this part may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of the service, shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, certified and mailed as aforesaid, shall be proof of service of the same.

Section 30. Section 634.439, Florida Statutes, is created to read:

634.439 **Cease and desist and penalty orders.**—After the hearing provided in s. 634.438, the department shall enter a final order in accordance with s. 120.59. If it is determined that the person charged has engaged in an unfair or deceptive act or practice or the unlawful transaction of service warranty business, the department shall also issue an order requiring the violator to cease and desist from engaging in such method of competition, act, or practice or the unlawful transaction of service warranty business. Further, the department may, at its discretion, order any one or more of the following:

(1) Suspension or revocation of the person's license, or eligibility for any license, if he knew, or reasonably should have known, he was in violation of this part.

(2) If it is determined that the person charged has provided or offered to provide service warranties without proper licensure, an administrative penalty not to exceed \$1,000 for each service warranty contract offered or effectuated.

Section 31. Section 634.440, Florida Statutes, is created to read:

634.440 **Appeals from the department.**—Any person subject to an order of the department under s. 634.439 may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeal from the orders of the department in general under s. 120.68.

Section 32. Section 634.441, Florida Statutes, is created to read:

634.441 **Penalty for violation of cease and desist orders.**—Any person who violates a cease and desist order of the department under s. 634.439 while such order is in effect, after notice and hearing as provided in s. 634.438, shall be subject, at the discretion of the department, to any one or more of the following:

(1) A monetary penalty of not more than \$50,000 as to all matters determined in such hearing.

(2) Suspension or revocation of such person's license or eligibility to hold a license.

Section 33. Section 634.442, Florida Statutes, is created to read:

634.442 **Injunction.**—In addition to the penalties and other enforcement provisions of this part, if any person violates s. 634.403 or s. 634.420 or any rule adopted pursuant thereto, the department may resort to proceedings for injunction in the circuit court of the county where such person resides or has his or its principal place of business, and therein apply for such temporary and permanent orders as the department may deem necessary to restrain such person from engaging in any such activities, until such person complies with such provisions and rules.

Section 34. Section 634.443, Florida Statutes, is created to read:

634.443 Civil liability.—The provisions of this part are cumulative to rights under the general civil and common law, and no action of the department shall abrogate such rights to damages or other relief in any court.

Section 35. Notwithstanding the provisions of the Regulatory Sunset Act, sections 634.401 through 634.409, sections 634.411 through 634.417, and sections 634.419 through 634.431, Florida Statutes, shall not stand repealed on October 1, 1983 as scheduled by such act but such sections, as amended, are hereby revived and readopted. Sections 634.410 and 634.418, Florida Statutes, shall stand repealed on October 1, 1983, as scheduled by the Regulatory Sunset Act.

Section 36. Notwithstanding any provision of law to the contrary, no provision of sections 634.401 through 634.431 scheduled for repeal on July 1, 1983 shall stand repealed on that date, and all such provisions are revived and readopted. This section shall not be construed to conflict with any repeal provided for in this act.

Section 37. Sections 634.401 through 634.443, Florida Statutes, are repealed on October 1, 1993, and shall be reviewed pursuant to section 11.61, Florida Statutes.

Section 38. This act shall take effect October 1, 1983, except section 36 which shall take effect upon becoming a law. However, if this act does not become a law until after July 1, 1983, section 36 shall retroactively take effect on July 1, 1983.

**Amendment 2**—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to service warranty associations; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 634.401-634.409, 634.411-634.417, and 634.419-634.431, Florida Statutes; relating to the regulation of service warranty associations; amending ss. 634.401(2), (9), (14), Florida Statutes, 1982 Supplement, ss. 634.404, 634.405, 634.406, 634.407(4), 634.408, 634.409(1), (2)(a), (d), 634.412(3), (4), 634.413, 634.415(3), 634.416, 634.417, 634.420, 634.421, 634.423, 634.424, 634.425, 634.426(1), 634.427, 634.429, Florida Statutes; adding ss. 634.401(17), 634.409(2)(f), Florida Statutes; adding s. 634.422(11), Florida Statutes; creating ss. 634.4145, 634.4165, 634.432, 634.434-634.443, Florida Statutes; providing definitions; providing that license issuance requirements apply to license renewals; deleting obsolete language; providing deposit requirements for warrantors; phasing out letters of credit used in place of deposits; permitting the purchase of contractual liability insurance instead of maintaining an unearned premium reserve; providing that license application fees be nonrefundable upon denial of license; providing conforming language; providing grounds for refusal, suspension, or revocation of license; deleting requirement for notification of license reinstatement; providing grounds for disapproval of forms; providing grounds for waiver of examination requirement; providing for discretionary examination of qualifying associations; requiring office records; providing for service of process; providing for biennial registration of sales representatives; prohibiting the reissuance of a registration revoked twice; providing administrative fines; requiring that the department be notified before merger or consolidation of warranty associations; providing that active department investigations are confidential pending completion; prohibiting unfair methods of competition and unfair acts; authorizing the department to investigate such practices; requiring the department to conduct hearings; providing for cease and desist orders; providing administrative penalties; providing for appeals; providing for injunctive relief; providing that department action does not abrogate other remedies; allowing to stand repealed pursuant to the Regulatory Sunset Act, ss. 634.410, 634.418, Florida Statutes; relating to license suspension procedures and serving process; providing for legislative review; providing retroactivity; providing an effective date.

On motion by Senator Thomas, by two-thirds vote CS for SB 208 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Childers, W. D.	Girardeau	Hill
Barron	Crawford	Gordon	Jenne
Beard	Dunn	Grant	Jennings
Carlucci	Fox	Grizzle	Johnston
Castor	Frank	Hair	Langley
Childers, D.	Gersten	Henderson	Malchon

Maxwell	Neal	Stuart	Vogt
McPherson	Plummer	Thomas	Weinstein
Myers	Scott	Thurman	

Nays—1

Mann

On motion by Senator Barron, the Senate recessed at 12:15 p.m., awaiting the call of the President.

The Senate was called to order by the President at 12:59 p.m. A quorum present.

On motion by Senator Vogt, the House was requested to return HB 1321.

On motion by Senator Barron, the rules were waived and the Senate reverted to—

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Curtis Peterson, President*

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

**CS for SB 461**—A bill to be entitled An act relating to student financial aid; amending s. 240.401(3), (4), Florida Statutes, 1982 Supplement, and adding a new subsection (5) to said section; providing for recipients to maintain a specified grade point average; providing for increases in voucher amounts; providing eligibility for handicapped students; renumbering s. 240.402(7), Florida Statutes, 1982 Supplement, and adding a new subsection (7) to said section; providing for a biennial review by the Department of Education on program effectiveness; creating s. 240.408, Florida Statutes, providing for student financial assistance eligibility; amending s. 240.409, Florida Statutes; deleting obsolete language; requiring students to apply for the Pell Grant if they apply for the state assistance grant; providing for distribution on the basis of need; requiring a specified grade point average; amending s. 240.413, Florida Statutes; transferring responsibility for Miccosukee and Seminole Indian Scholarship Fund from the Student Financial Assistance Commission to the Department of Education; providing for Miccosukee and Seminole Indian scholarship recipients; amending s. 240.427, Florida Statutes, 1982 Supplement; transferring responsibility of the commission to the department; providing for the department to administer financial aid programs; providing for review of financial aid resources by the department; amending ss. 240.429, 240.431, and 240.435, Florida Statutes, 1982 Supplement; transferring responsibilities of the commission to the department; creating the Florida Council of Student Financial Aid Advisors; providing for duties and responsibilities of the council; amending s. 240.437, Florida Statutes, 1982 Supplement; deleting obsolete language; providing for financial aid distribution primarily on the basis of need; providing for verification of the independent status of students; requiring recipients of state financial aid at independent Florida postsecondary institutions to participate in the skills testing program; amending s. 240.447, Florida Statutes, 1982 Supplement; substituting references to federally insured student loans with Guaranteed Student Loan; expanding the department's authority to contract for purchase and sale of loan notes; amending s. 240.459, Florida Statutes; substituting federally insured student loan with Guaranteed Student Loan; amending s. 240.60, Florida Statutes, 1982 Supplement; restricting expenditure of Work Experience Trust funds for wages not related to major areas of study; providing for a review by the department; amending s. 240.601, Florida Statutes, 1982 Supplement; requiring a student to maintain a minimum grade level for renewal of program awards; repealing s. 240.421, Florida Statutes, abolishing the Florida Student Financial Aid Advisory Council; repealing s. 240.423, Florida Statutes, abolishing the Florida Student Financial Assistance Commission; repealing s. 240.425, Florida Statutes, eliminating power and duties of the commission; repealing s. 240.433, Florida Statutes, relating to the location of the commission; providing for future repeal and review of certain sections; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 3, line 15, strike everything after the enacting clause and insert:

Section 1. Section 240.401, Florida Statutes, 1982 Supplement, is renumbered as section 240.504 and amended to read:

## 240.504 240.401 State tuition vouchers.—

(1) There is created the State Tuition Voucher Fund to be administered by the Department of Education. The *State Board of Education* ~~department~~ shall adopt rules for the administration of such fund.

(2) The department shall issue from the fund a tuition voucher to any full-time undergraduate student registered at an independent nonprofit college or university which is located in and chartered by the state; which is accredited by an agency holding membership in the Council on Postsecondary Accreditation; which grants baccalaureate, associate of arts, or associate of science degrees and whose credits are acceptable without qualification for transfer to state universities; and which is not a state university or state community college or a pervasively sectarian institution.

(3) A person is eligible to receive such tuition voucher if:

(a) He has ~~resided~~ *continuously been a resident of* in the state for other than educational purposes for the 2 years immediately preceding the award of the tuition voucher ~~and is not a resident of another state;~~

~~(c) He is registered:~~

~~1. As a freshman after July 31, 1979;~~

~~2. As a freshman or sophomore after July 31, 1980;~~

~~3. As a freshman, sophomore, or junior after July 31, 1981; or~~

~~4. As a freshman, sophomore, junior, or senior after July 31, 1982; and~~

~~(b)(d)1.~~ He is enrolled as a full-time undergraduate student at an eligible college or university;

2. He is not enrolled in a program of study leading to a degree in theology or divinity; and

3. He is making satisfactory academic progress as defined by the college or university in which he is enrolled; *and:*

*(d) As a condition for renewal of a tuition voucher, he has earned a grade point average of at least 2.0 on a 4.0 scale for the previous term, has earned at least an overall 2.0 average for college work, or has an average below 2.0 for only the previous term and is eligible for continued enrollment in the institution.*

(4)(a) The amount of the tuition voucher issued to a full-time student shall be no more than \$1,000 per academic year or as specified in the General Appropriations Act. *If the ratio between student tuition and general revenue appropriations at Florida's community colleges and state universities declines for 3 consecutive years, consideration shall be given to increasing the voucher amount.* The tuition voucher shall be paid on a prorated basis at the beginning of each quarter, semester, or term. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Students shall not be eligible to receive the award for more than 4 years, 8 semesters, or 12 quarters.

(b) If the combined amount of the tuition voucher issued pursuant to this act and all other scholarships and grants for tuition or fees exceeds the amount charged to the student for tuition and fees, the department shall reduce the tuition voucher issued pursuant to this act by an amount equal to such excess.

Section 2. Subsections (3) and (4) of section 240.402, Florida Statutes, 1982 Supplement, are amended, subsection (7) is renumbered as subsection (8), and a new subsection (7) is added to said section to read:

## 240.402 Florida Academic Scholars' Fund.—

(3) The award to a student attending an institution with annual tuition and registration fees of \$2,000 or less shall be \$500. The award to a student attending an institution with annual tuition and registration fees above \$2,000 shall be \$750. ~~This award is in addition to other scholarships, grants, or loans received by the student and shall not be used in the determination of need for purposes of s. 240.409.~~ Payment of an award shall be transmitted, on behalf of the student, to the president of the college, university, community college, or nursing diploma school which the recipient is attending or to his representative in advance of the registration period. If a recipient does not enroll or terminates his enrollment for any reason during the academic year, the unused portion of the award, as determined by policies and rules, shall be refunded within 60

days to the department, for the purposes of this section, by the president of the college, university, community college, or nursing diploma school or by his representative.

(4) A recipient shall maintain the equivalent of a 3.2 cumulative grade average on a 4.0 scale, or shall maintain an approved equivalent student progress evaluation plan, on at least 12 hours per quarter, trimester, or semester in order to be eligible for a continuation of the award. No student may receive a Florida Academic Scholars' Fund award for more than the equivalent of 8 semesters or 12 quarters. The award may be renewed annually upon ~~a showing by the recipient~~ *documentation* that he meets the necessary qualifications. If any recipient transfers from one accredited Florida college, university, community college, or nursing diploma school to another eligible institution, his award shall be transferable, provided he is otherwise eligible for the award.

(7) *The department shall report to the state board and the Legislature on or before November 1, 1983, and biennially thereafter, on the effectiveness of the Academic Scholars' Fund. Such report shall include but not be limited to:*

*(a) An evaluation of the effectiveness of the award criteria.*

*(b) An estimate of the number of high achievers retained in the state as a result of the program.*

*(c) An evaluation of the individual award levels.*

*(d) An evaluation of the overall support needs of the program.*

*(e) Recommendations for any necessary program modifications.*

Section 3. Section 240.403, Florida Statutes, is amended to read:

240.403 Ex-Confederate Soldiers' and Sailors' Home Endowment Trust Fund.—Any funds which have been or may hereafter be deposited into the State Treasury under chapter 8505, Laws of Florida, 1921, shall be known as the "Ex-Confederate Soldiers' and Sailors' Home Endowment Trust Fund," and the same shall be invested as provided by law. The proceeds thereof shall be used for the endowment of a scholarship or scholarships in the State University System or in a state community college. The said scholarship or scholarships shall be awarded ~~upon competitive examination under such rules and regulations as the Department of Education may make; provided, that no one shall be eligible to compete in said examination for said scholarships except a lineal descendant of a Confederate soldier or sailor subject to State Board of Education rule;~~ provided further, that whenever it shall appear that no one can qualify for said ~~award~~ *competitive examination* as a lineal descendant of a Confederate soldier or sailor, the Department of Education shall use said endowment trust fund to erect a permanent memorial to the Confederate soldiers and sailors in the form of a building upon the campus of the University of Florida or Florida State University, in the discretion of the Department of Education, and suitably mark said building as a memorial to the Confederate soldiers and sailors. The Department of Education shall administer this scholarship program subject to ~~rules~~ *regulations* of the ~~state board~~ *department*.

Section 4. Section 240.404, Florida Statutes, is created to read:

240.404 *General student eligibility requirements for state financial aid.—*

*(1) General student eligibility requirements for state financial aid awards shall consist of the following:*

*(a) Acceptance at a state university or community college, a nursing diploma school approved by the Florida Board of Nursing, a Florida college, university, or community college which is accredited by a member of the Council on Postsecondary Accreditation, any Florida institution whose credits are acceptable for transfer to state universities, any area vocational-technical center, or any private vocational-technical institution accredited by a member of the Council on Postsecondary Accreditation.*

*(b) As a condition for renewal of a financial aid award, a student shall earn a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall 2.0 average for college work, or have an average below 2.0 for only the previous term and be eligible for continued enrollment in the institution.*

*(c) Participation in the college level communication and computation skills testing program. This requirement shall be limited to students seeking associate's or bachelor's degrees.*

(d) *Residency in Florida for no less than 2 years preceding the award of aid; however, students receiving aid pursuant to ss. 240.403 and 240.405 shall be exempt from this requirement.*

(2) *These requirements shall not preclude higher standards specified in other sections of this part, in rules of the state board, or in rules of the participating institutions.*

Section 5. Subsections (2) and (5) of section 240.405, Florida Statutes, are amended to read:

240.405 Scholarships for teachers for special training in exceptional child education.—

(2) These grants are limited to teachers who are under contract to teach in the exceptional child program in this state, *a major state retardation facility the Sunland training centers*, the child training centers, and at the Florida School for the Deaf and the Blind.

(5) The Department of Education shall administer this program under *rules regulations* established by the *state board department*.

Section 6. Section 240.409, Florida Statutes, is amended to read:

240.409 State Student Assistance Grant Fund created; eligibility for grants.—

(1) There is hereby created a State Student Assistance Grant Fund to be administered by the Department of Education in accordance with *rules of the state board policies and regulations to be established by the department*.

(2)(a) Student assistance grants from said fund shall be made only to full-time students who have been bona fide residents of Florida for the preceding 2 years. Provided, a renewal applicant who was in the program prior to June 30, 1978, shall be eligible for a renewal grant for the amount of demonstrated unmet need for educational expenses only, which grant shall not exceed a total of \$1,200 per academic year. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees only and shall not exceed a total of \$1,200 per academic year to any ~~one~~ individual applicant. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a student assistance grant. Recipients of such grants must have been accepted at a state university or community college authorized by Florida law, a nursing diploma school approved by the Florida Board of Nursing, or any Florida college, university, or community college which is accredited by a member of the Council on Postsecondary Accreditation or any Florida institution whose credits are acceptable for transfer to state universities. No student may receive an award for more than the equivalent of 8 semesters or 12 quarters in a period of not more than 6 consecutive years.

(b) *Students applying for a state student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered by the department when conducting an assessment of the financial resources available to each student.*

(c)(b) The criteria and procedure for establishing standards of eligibility shall be determined by the department, ~~but no person shall be eligible who has not demonstrated high moral character, good citizenship, and dedication to American ideals.~~ The department is directed to establish a rating system upon which to base the approval of grants, and such system shall include a certification of acceptability by the college, university, community college, or nursing diploma school of the applicant's choice and a ~~determination of unmet need based on~~ the use of a nationally recognized system or ~~method~~ of need analysis. *Priority for distribution of grant moneys shall be to students with the lowest total family resources, as determined above, taking into consideration the receipt of Pell Grants and student contributions to educational costs. Students receiving grants prior to July 1, 1983, who apply for renewal grants shall have their eligibility assessed on the same criteria used at the time of their original application; however, of the portion of the appropriated funds expended for new grant awards, no more than 50 percent of the funds shall be expended for students attending public postsecondary institutions.*

(3) Priority in the awarding of student assistance grants for the first year shall be given to entering first-year freshman students and then to community college transfer students. In any event, priority in the awarding of grants shall be given to those applicants who have demonstrated the most promise for academic success as evidenced by a standardized examination and their record of academic achievement. *As a condition*

*for renewal of a grant award, a student shall earn a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall 2.0 average for college work, or have an average below 2.0 for only the previous term and be eligible for continued enrollment in the institution. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.*

(4)(a) Each person awarded a student assistance grant under the terms of this law ~~is shall be~~ eligible, upon ~~making completion of~~ satisfactory ~~academic progress work~~ each year and upon compliance with ~~eligibility requirements and rules standards in subsections (1)-(3) and regulations of the state board~~ Department of Education, to have his student assistance grant renewed from year to year. A grant renewal period may not exceed 9 quarters or the equivalent semesters or trimesters in a period not to exceed 5 years or until graduation or termination of full-time attendance, whichever comes earlier.

(b) In the event that a student assistance grant recipient transfers from one accredited Florida college, university, community college, or nursing diploma school to another, his grant shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution ~~in accordance with subsections (1)-(3)~~ and shall be adjusted accordingly.

(5) Payment of student assistance grants shall be transmitted to the president of the college, university, community college, or nursing diploma school which the recipient is attending or to his representative. Should any recipient terminate his enrollment for any reason during the academic year, the unused portion of the grant, as determined by ~~rules and regulations of the state board~~ Department of Education, shall be refunded within 60 days to the department for the purposes of this section by the president of the Florida accredited college, university, community college, or nursing diploma school or by his representative.

Section 7. Section 240.411, Florida Statutes, is hereby repealed.

Section 8. Section 240.413, Florida Statutes, is amended to read:

240.413 Seminole and Miccosukee Indian Scholarships.—

(1) There is created a Seminole and Miccosukee Indian Scholarship Fund to be administered by ~~the Florida Student Financial Assistance Commission of the~~ Department of Education in accordance with ~~rules policies~~ established by the State Board of Education. The Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida shall act in an advisory capacity in the development of the rules.

(2) Scholarships shall be awarded by the ~~department commission~~ to students who:

(a) Have graduated from high school, have earned an equivalency diploma issued by the Department of Education pursuant to s. 229.814, have earned an equivalency diploma issued by the United States Armed Forces Institute, or have been accepted through an early admission program;

(b) Are enrolled at a state university or community college authorized by Florida law; a nursing diploma school approved by the Board of Nursing; any Florida college, university, or community college which is accredited by a member of the Council on Postsecondary Accreditation; or any Florida institution the credits of which are acceptable for transfer to state universities;

(c) Are enrolled as either full-time or part-time undergraduate or graduate students and make satisfactory academic progress as defined by the college or university; and

(d) Have been recommended by the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida.

(3) Recommendation by the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida shall:

(a) Be based upon established standards of financial need as determined by the respective tribe and the ~~department commission~~;

(b) Be based upon such other eligibility requirements for student financial assistance as are adopted by the respective tribe; and

(c) Include certification of membership or eligibility for membership in the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida; ~~and~~

~~(d) Include a recommendation for the amount of the award.~~

(4) The amount of the scholarship shall be determined by the Seminole or Miccosukee Tribe of Florida, for its respective applicants, within the amount of funds appropriated for this purpose not exceed a total of \$2,000 per academic year for a full-time student. The amount shall be prorated accordingly for part-time students. At the beginning of each semester or quarter, the department commission shall certify the name of each scholarship holder eligible to receive funds for that registration period to the Comptroller, who shall draw a warrant in favor of each scholarship recipient. Each recipient shall be eligible to have the scholarship renewed from year to year, provided all academic and other requirements of the college or university and rules established by the State Board of Education are met.

~~(5) The commission shall recommend sufficient amounts for the continuation of the program to the Commissioner of Education, who shall include amounts sufficient for program continuation such recommendation in the department's legislative budget requests.~~

Section 9. Subsections (2), (3), (4), (6), and (7) of section 240.415, Florida Statutes, are hereby repealed, and subsection (1) is amended to read:

240.415 Student Financial Aid Trust Fund; administration.—

(1) There is hereby created a Student Financial Aid Fund to be administered by the State Department of Education in accordance with rules policies and regulations to be established by the state board department.

Section 10. Section 240.419, Florida Statutes, is hereby repealed.

Section 11. Section 240.421, Florida Statutes, is amended to read:

240.421 Florida Council of Student Financial Aid Advisors Advisory Council.—There is created the Florida Council of Student Financial Aid Advisors Advisory Council for the purpose of advising the Commissioner of Education on any matters related to student financial aid.

(1) The council shall be composed of 16 10 members who shall be appointed by the Commissioner of Education. The membership of the council shall include:

(a) Two persons from the commercial financial community in Florida.

(b) Two persons from the postsecondary education community in Florida.

(c) Two practicing financial aid administrators for accredited private postsecondary institutions in Florida.

(d) Two practicing financial aid administrators for public community colleges in Florida.

(e) Two practicing financial aid administrators for state universities in Florida.

(f) Two practicing financial aid administrators for postsecondary vocational education centers in Florida.

(g) Two lay citizens who do not derive a majority of their incomes from education or the commercial financial field.

(h) Two full-time students enrolled in postsecondary education in Florida.

~~(a) Three representatives of accredited private institutions of higher learning in this state.~~

~~(b) Two representatives of public community colleges in this state.~~

~~(c) Two representatives of state universities in this state.~~

~~(d) Two representatives of the Professional Financial Aid Administrators' Association.~~

~~(e) One full-time student representative from a postsecondary institution in this state.~~

~~(2) Each member shall be a practicing financial aid administrator at the institution represented, except for the full-time student member.~~

~~(2)(3) At no time shall more than one person from the same institution serve as a member of the council, with the exception of the student members member, who shall be selected at large.~~

~~(3)(4) The terms of members shall be 4 years, except for the full-time student members member, who shall serve for 2 years 1 year, but the terms of new members shall be fixed by the commissioner in such manner as will provide for the expiration each year of the terms of at least five three members.~~

~~(4)(5) Any vacancy shall be filled by the appointment of a person of the same classification or status as his predecessor, and such appointee shall hold office only for the balance of the unexpired term.~~

~~(5)(6) The council shall elect a recording secretary, a vice-chairperson, and a chairperson from its membership who shall be its principal officers officer. The council shall meet on no less than a quarterly basis at the call of its chairman, at the request of a majority of its membership, at the request of the Commissioner of Education, or at such times as may be prescribed by its rules.~~

~~(6)(7) The members of the council shall receive no compensation for their services, but they shall be entitled to per diem and travel expenses, as provided in s. 112.061, when actually engaged in discharging their duties as members of the council.~~

Section 12. Duties and responsibilities of the Council.—The Council shall:

(1) Prepare and submit to the Commissioner of Education long range plans for financial aid in the State of Florida. Such plans shall include recommendations for any modifications to existing state financial aid programs.

(2) Review biennial financial aid reports of the department, required by this chapter, prior to submission to the Legislature and the State Board of Education.

(3) Meet at least 3 times annually with the Commissioner of Education. Minutes of all meetings of the council are to be submitted to the department.

Section 13. The Florida Council of Student Financial Aid Advisors is repealed on October 1, 1986, and shall be reviewed pursuant to s. 11.611, Florida Statutes.

Section 14. Section 240.424, Florida Statutes, is created to read:

240.424 Duties of the Department.—The duties of the Department shall include:

(1) Administration of this part and rules adopted by the State Board of Education.

(2) Administration of federal funding, insurance, or reinsurance in full compliance with applicable federal law and regulation.

(3) Development of written administrative procedures and controls for the administration of each financial aid program conducted by the office, the maintenance of program records and documents, the timely collection and remittance of insurance premiums, and the timely assignment of defaulted loans to collection agencies.

(4) Annual compilations of sources of financial aid available to students in this state.

(5) Biennial analysis of the amount of available financial aid moneys and the effect of such moneys on student access to postsecondary institutions.

(6) Biennial internal evaluations of the administrative efficiency and effectiveness of the office.

(7) Annual assessments of the accuracy of eligibility information from a random sample of award recipients.

(8) Development and evaluation of a comprehensive, long-range program of all sources of student financial aid.

(9) Dissemination of information on available financial aid programs to superintendents of schools and other persons who request such information.

Section 15. Sections 240.423, 240.425, and 240.427, Florida Statutes, are hereby repealed.

Section 16. The legal and financial obligations of the Florida Student Financial Assistance Commission are transferred to the Department. The Department shall be substituted for the commission as a party to all contracts between the commission and other parties existing on the effective date of this act. All legal interests and causes of action of the commission existing on the effective date of this act shall inure to the benefit of the office.

Section 17. Section 240.429, Florida Statutes, is amended to read:

240.429 Assistance programs and activities of the *department commission*.—

(1) The *department commission* may contract for the administration of the student financial assistance programs as specifically provided in ss. 240.413, 240.415, 240.417, ~~240.419~~, 240.439, and 295.01.

(2) The *department commission* may contract to provide the planning and development activities *required pursuant to the provisions of this part provided in ss. 240.421 and 240.437*.

(3) The *department commission* shall administer the guarantee of student loans made by participating commercial financial institutions in such a manner as to fully comply with applicable provisions of the Higher Education Act of 1965, as amended, relating to loan reinsurance.

Section 18. Section 240.431, Florida Statutes, is amended to read:

240.431 Funding for programs administered by the *department commission*.—

(1) In the preparation of its annual budget, the *department commission* shall request that the Legislature continue to provide funding for applicable programs from the General Revenue Fund.

(2) The *department commission* is authorized to expend moneys from available trust funds in applicable student financial assistance programs.

(3) There is hereby created a Student Loan Guaranty Reserve Fund, which shall be administered by the *department commission* in carrying out the provisions of this act.

(4) The principal sources of operating funds shall be from the earnings from the temporary investment of the Student Loan Guaranty Reserve Fund and from compensation for services performed under contract for the administration of student financial assistance programs pursuant to s. 240.429.

(5) The *department commission* is authorized to accept grant funds under the State Student Incentive Grant Program of the Federal Government, as provided by the Higher Education Act of 1965, as amended.

(6) The *department commission* is authorized to accept federal advances for the establishment of the Student Loan Guaranty Reserve Fund pursuant to the Higher Education Act of 1965, as amended, under agreement with the United States Commissioner of Education and to maintain such advances until recalled by the United States Commissioner of Education.

(7) The *department commission* is authorized to assess a student loan insurance premium on each loan guaranteed by the *department commission*. The amount of insurance premium will be determined by the *department commission* in the amount sufficient to maintain the pledged level of reserve funds but in no event may the amount of the insurance premium exceed the maximum provided by federal law.

(8) The *department commission* shall invest, or contract for the temporary investment of, any unencumbered cash, and the interest earned therefrom, except as otherwise provided for by law or covenant, shall accrue to the Student Loan Guaranty Reserve Fund or for the administration of financial aid programs ~~the commission~~.

Section 19. Sections 240.433 and 240.435, Florida Statutes, are hereby repealed.

Section 20. Section 240.437, Florida Statutes, 1982 Supplement, is amended to read:

240.437 Student financial aid planning and development.—

(1) There is created a student financial aid planning and development program which shall be administered by the Department of Education. It is the intent of the Legislature that a specific sum of funds be allocated each year for the purpose of sponsoring the design, development, and implementation of a comprehensive program of student financial aid and of initiating activities of inservice training for student financial aid administrators and activities to encourage maximum lender participation in guaranteed loans. The Florida *Council of Student Financial Aid Advisors Scholarship and Loan Council* shall serve as the advisory body to the Department of Education in the development of a comprehensive program of student financial aid.

(2) The objective of a state program shall be the maintenance of a state student financial aid program to supplement a basic national program which will provide equal access to *postsecondary post-high school* education to Florida citizens who have the ability and motivation to benefit from a *postsecondary post-high school* education. In the development of a state program to achieve this objective, it shall be the policy that:

(a) State student financial aid be provided *primarily* on the basis of financial need;

(b) *Students receiving need-based financial aid be expected to contribute toward their cost of education through self-help resources such as savings, work, and loans. Admission to an institution be the criterion for eligibility for financial aid;*

(c) Student financial aid be available to Florida residents for attendance at accredited institutions of higher education in Florida, public or private;

(d) Student financial aid be provided for all levels of *postsecondary post-high school* education; and

(e) State student financial aid be administered by a central state agency.

(f) *Effective August 1, 1985, students enrolled in associate of arts and bachelor's degree programs in independent Florida institutions who receive state aid pursuant to s. 240.402, s. 240.409, s. 240.504, or s. 240.60 shall participate in the college-level communication and computation skills testing program provided in s. 229.551. The department and the eligible institutions shall negotiate an agreement that will assure that the test is available to students either directly through the independent institutions or on a contractual basis with a state community college or university. Prior to August 1, 1985, all independent institutions subject to this provision shall have an opportunity to participate in preliminary testing activities similar to those afforded the public institutions prior to the initiation of formal testing; and, provided that the independent sector shall be afforded appropriate representation on all committees and commissions charged with responsibilities for developing, administering, and evaluating the tests.*

Planning and development shall be in accordance with the above objective and policies.

(3) The planning and development procedures shall provide for:

(a) The review of public policy;

(b) The development of performance objectives;

(c) The development of alternate approaches;

(d) The evaluation of performance; and

(e) The participation and involvement in the planning process of representatives of the groups affected by a state program of student financial aid.

(4) *The state board shall adopt rules providing for the verification of the independent status of state financial aid recipients.*

(5) *The department shall encourage industry and education linkages through the development of temporary employment opportunities for students attending Florida postsecondary institutions. The department, in cooperation with the Department of Administration, shall study the feasibility of providing a portion of state agency other personal services funds for temporary student employees and the feasibility of designating a percentage of such funds to be distributed on the basis of need. The results of this study shall be presented to the state board and the Legislature by February 1, 1984.*

Section 21. Sections 240.443 and 240.445, Florida Statutes, are hereby repealed.

Section 22. Section 240.447, Florida Statutes, is amended to read:

240.447 Approval of loans; administration of fund.—

(1) The loans to be made with the proceeds of the fund shall be determined and approved by the Department of Education, pursuant to rules and regulations promulgated by the State Board of Education. The fund shall be administered by the Department of Education as provided by law and shall be maintained and secured in the same manner as other public trust funds.

(2) The Department of Education is authorized to contract for the purchase of federally insured student loans to be made by other eligible lenders under the *guaranteed federally insured* student loan program; however, any such loans must comply with all applicable requirements of s. 15, Art. VII of the State Constitution, ss. 240.439-240.463, the rules of the State Board of Education relating to the *guaranteed federally insured* student loan program, and the proceedings authorizing the student loan revenue bonds, and the loans so purchased shall have been made during the period specified in the contract.

(3) The Department of Education is authorized to sell loan notes acquired pursuant to ss. 240.439-240.463 to the federally created Student Loan Marketing Association or other federally authorized holder of such notes. ~~The department may also repurchase loan notes from authorized holders of such notes. The department shall comply and shall take such action as is necessary to comply~~ with applicable federal law and regulations and the provisions of any agreement with the Student Loan Marketing Association or the other authorized holders for the sale of such loan notes not inconsistent with such law and regulations, including, but not limited to, making agreements for the repurchase of loan notes sold to the Student Loan Marketing Association.

Section 23. Section 240.451, Florida Statutes, is amended to read:

240.451 Terms of loans.—The term of all authorized loans shall be fixed by rules ~~the regulations~~ adopted by the ~~state board~~ Department of Education and the loan agreements to be entered into with the student borrowers.

Section 24. Section 240.459, Florida Statutes, is amended to read:

240.459 Participation in *guaranteed federally insured* student loan program.—~~The state board~~ Department of Education shall adopt rules and regulations necessary for participation in the *guaranteed federally insured* student loan program, as provided by the Higher Education Act of 1965 (Chapter 20, U.S.C., ss. 1071 et seq.), as amended or as may be amended ~~from time to time~~. The intent of this act is to authorize student loans when the State of Florida, through the Department of Education, has become an eligible lender under the provisions of the applicable federal laws providing for the guarantee of loans to students and the partial payment of interest on such loans by the United States Government.

Section 25. Subsection (3) of section 240.465, Florida Statutes, is amended, subsection (6) is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

240.465 Delinquent accounts.—

(3) The department is authorized to settle any delinquent unpaid and uncanceled scholarship loan notes and student loan agreements and to employ the service of a collection agency when deemed advisable in collecting delinquent accounts. However, no collection agency shall be paid a commission in excess of 35 percent of the amount collected. *Any expense incurred by the department in enforcing the collection of loan notes may be borne by the signer of the note and may be added to the amount of the principal of such notes.*

(6) *The department is authorized to charge an individual borrower who has been determined to be delinquent in making legally required loan repayments the maximum interest rate authorized by law.*

Section 26. Section 240.60, Florida Statutes, 1982 Supplement, is amended to read:

240.60 College career work experience program.—There is established the college career work experience program, to be administered by the Department of Education. The purpose of the program is to introduce eligible students to work experience in their declared major areas of study.

(1) Such program shall be available to:

(a)(1) Any student attending a state university or community college authorized by Florida law; ~~or and~~

(b)(2) Any student attending a nonprofit Florida college or university which is accredited by a member of the Council on Postsecondary Accreditation, the credits of which are acceptable, without qualification, for transfer to a state university; which grants baccalaureate or associate degrees; which is not a pervasively sectarian institution; and which is located in and chartered by the state.

(2) Each participating university or college is empowered to enter into a contractual agreement with any private or public employer for the purpose of establishing a career work experience program. The public or private employer shall be responsible for furnishing 50 percent of the student's wages. The participating college or university shall furnish the remaining 50 percent of the student's wages from moneys which it receives from the trust fund established in s. 240.602; *however, no money received from the trust fund shall be used to pay wages for a student's employment which is not related to the student's declared major area of study. The private or public employer shall be responsible for furnishing the full cost of any mandatory benefits. Such benefits shall not be considered part of the 50 percent wage requirement total.*

(3) *The Department of Education shall report to the State Board of Education and the Legislature on or before November 1, 1983, and biennially thereafter, on the effectiveness of the college career work experience program. Such report shall include, but not be limited to:*

(a) *An analysis of the current participation of state agencies and community colleges in the program.*

(b) *An analysis of the need for creation of a job development component to the program and a specific budget request for this component if the analysis identifies a need.*

(c) *Recommendations for any necessary program modifications.*

Section 27. Section 240.601, Florida Statutes, 1982 Supplement, is amended to read:

240.601 Work experience program; eligibility.—

(1) A student ~~is shall be~~ eligible to participate in the college career work experience program if:

(a)(1) He is enrolled at an eligible college or university as *no less than a half-time* ~~a full-time~~ undergraduate student in good standing, as defined by the college or university;

(b)(2) He has *been a resident of* ~~resided continuously in~~ the state *continuously* for the 2 years immediately preceding his application for participation in the program and is not a resident of another state;

(c)(3) He is a citizen of the United States or is in the United States for other than a temporary purpose with the intent to become a citizen; and

(d)(4) He demonstrates financial need, as defined by the college or university.

(2) *As a condition for renewal of a grant award, a student shall earn a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall 2.0 average for college work, or have an average below 2.0 for only the previous term and be eligible for continued enrollment in the institution.*

Section 28. Section 743.05, Florida Statutes, is amended to read:

743.05 Removal of disabilities of minors; borrowing money for educational purposes.—For the purpose of borrowing money for their own higher educational expenses, the disability of nonage of minors is removed for all persons who have reached 16 years of age. Such minors are authorized to make and execute promissory notes, contracts, or other instruments necessary for the borrowing of money for this purpose. The promissory notes, contracts, or other instruments so made shall have the same effect as though they were the obligations of persons who were not minors. No such obligation shall be valid if the interest rate on it exceeds *the prevailing interest rate for the Federal Guaranteed Student Loan Program 7 percent a year.*

Section 29. This act shall take effect July 1, 1983.

**Amendment 2**—On pages 1-3, in title, strike all and insert: A bill to be entitled An act relating to postsecondary education; amending and renumbering s. 240.401, Florida Statutes, 1982 Supplement; revising eligibility requirements for tuition vouchers awarded to students at independent colleges and universities; providing that consideration be given to increasing the voucher amount under certain circumstances; amending s. 240.402(3) and (4), Florida Statutes, 1982 Supplement, and adding new subsection (7); revising provisions relating to awards from the Florida Academic Scholars' Fund; requiring a report on the effectiveness of the fund; amending s. 240.403, Florida Statutes; revising provisions relating to award of scholarships to descendants of Confederate soldiers or sailors; creating s. 240.404, Florida Statutes; specifying general student eligibility requirements for state financial aid; amending s. 240.405(2) and (5), Florida Statutes, relating to scholarships for teachers for special training in exceptional child education; correcting terminology; amending s. 240.409, Florida Statutes; revising requirements relating to award of state student assistance grants and eligibility therefor; requiring that applicants apply for the Pell Grant; providing priorities for distribution of grant moneys; repealing s. 240.411, Florida Statutes, relating to scholarships in nursing education; amending s. 240.413, Florida Statutes; providing for administration of Seminole and Miccosukee Indian scholarships by the Department of Education; revising eligibility requirements; providing for determination of amount of scholarships by the appropriate tribe and deleting a limitation; amending s. 240.415(1), Florida Statutes, and repealing subsections (2)-(4), (6) and (7); deleting provisions relating to department duties with respect to loans and scholarships, eligibility for loans from the Student Financial Aid Trust Fund, execution of promissory notes by recipients and repayment thereof, and short-term loans from the trust fund; providing that voucher, loan, grant and scholarship programs shall be administered by the department subject to State Board of Education rules; repealing s. 240.419, Florida Statutes; relating to a limitation on loans to students in private colleges and universities; amending s. 240.421, Florida Statutes; renaming the Florida Student Financial Aid Advisory Council as the Florida Council of Student Financial Aid Advisors; revising the membership thereof; revising terms of student members; providing for officers and meetings; providing duties thereof; providing repeal date; providing duties of department; repealing ss. 240.423, 240.425, 240.427, 240.433, and 240.435, Florida Statutes, relating to the Florida Student Financial Assistance Commission and its duties, location of offices, and financial requirements; transferring legal and financial obligations of the commission to the department; amending s. 240.429, Florida Statutes; specifying powers of the department with respect to contracting for the administration of financial assistance programs and related planning and development activities; amending s. 240.431, Florida Statutes; providing duties of the department with respect to funding of financial assistance programs, administration of the Student Loan Guaranty Reserve Fund, acceptance of grants and advances, assessment of insurance premiums, and investment of funds; amending s. 240.437, Florida Statutes, 1982 Supplement, relating to student financial aid planning and development; revising policies with respect to financial aid; requiring that certain recipients participate in the college-level communication and computation skills testing programs; directing the State Board of Education to adopt rules for verification of independent status of aid recipients; providing department duties with regard to development of temporary employment opportunities for students and study of the use of state agency other personal services funds for such employees; repealing s. 240.443, Florida Statutes, relating to authority of department to pledge certain fees and revenues as security for revenue bonds issued to finance the Student Loan Trust Fund; repealing s. 240.445, Florida Statutes, relating to eligibility for loans from said fund; amending s. 240.447, Florida Statutes; authorizing certain sale and repurchase of loan notes; amending s. 240.451, Florida Statutes; providing that the term of authorized loans shall be fixed by state board rule; amending s. 240.459, Florida Statutes; directing that the state board adopt rules for participation in the guaranteed student loan program; amending s. 240.465(3), Florida Statutes, and adding a new subsection (6); providing that expenses incurred by the department in enforcing the collection of loan notes may be borne by the signer of the note; authorizing the department to charge interest against delinquent borrowers; amending s. 240.60, Florida Statutes, 1982 Supplement, relating to the college career work experience program; providing that trust fund moneys shall not be used for wages for employment unrelated to the student's major area of study; specifying that the employer is responsible for the cost of benefits; requiring reports on the effectiveness of the program; amending s. 240.601, Florida Statutes, 1982 Supplement; revising eligibility requirements for the program; amending s. 743.05, Florida Statutes; providing that the interest rate on obligations incurred by certain persons for educational purposes shall not exceed the rate for the Federal Guaranteed Student Loan Program; providing an effective date.

On motions by Senator Maxwell, the Senate concurred in the House amendments.

CS for SB 461 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—25

Beard	Frank	Kirkpatrick	Stuart
Carlucci	Girardeau	Mann	Thomas
Castor	Hair	Margolis	Vogt
Childers, D.	Hill	Maxwell	Weinstein
Crawford	Jenne	Neal	
Dunn	Jennings	Plummer	
Fox	Johnston	Scott	

Nays—1

Langley

Vote after roll call:

Yea—W. D. Childers

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for SB 466**—A bill to be entitled An act relating to postsecondary education; adding subsection (11) to s. 228.071, Florida Statutes; authorizing joint applications for community education grants; creating s. 229.52, Florida Statutes; requiring the State Board of Education to provide certain assistance in the economic development of the state; adding s. 229.551(3)(g), Florida Statutes, 1982 Supplement; requiring the Department of Education to evaluate vocational education programs; amending s. 230.23(4)(l), Florida Statutes, 1982 Supplement; requiring district school boards to provide certain exchange programs for staff of technical and vocational programs; amending s. 240.115(1), Florida Statutes, and adding a new subsection (3) to said section; increasing the types of articulation included in the department's articulation agreement; requiring certain cooperation between universities and community colleges and secondary schools; creating s. 240.122, Florida Statutes, relating to postsecondary education funding; amending s. 240.125, Florida Statutes; authorizing the Commissioner of Education to establish a Trust Fund for Postsecondary Cooperation; amending s. 240.147, Florida Statutes; expanding the duties of the Postsecondary Education Planning Commission in the review of postsecondary programs and the state master plan; amending s. 240.209(3)(e), (f), (g), Florida Statutes, 1982 Supplement; providing for certain considerations in recommending tuition fees for universities; requiring certain review of programs at state universities; creating s. 240.2095, Florida Statutes; providing criteria for the approval of new programs at state universities; restricting the approval of new programs; amending s. 240.243, Florida Statutes; amending the definition of classroom contact hour; providing for teaching hours by university faculty; amending s. 240.271(5)(7), F. S., deleting provisions relating to biennium funding for the State University System, funds for reduced enrollment, and biennial quality improvement funding; creating s. 240.312, Florida Statutes; requiring program reviews at community colleges; adding s. 240.319(3)(v), (w), Florida Statutes, 1982 Supplement; providing for community college personnel; creating s. 240.320, Florida Statutes; providing a state policy for the approval of new programs at community colleges; amending s. 240.321, Florida Statutes; correcting a cross reference; amending s. 240.325(5), Florida Statutes; providing for considerations in determining community college tuition fees; amending s. 240.353(1), Florida Statutes; providing for legislative definition of community college full-time equivalent students; amending s. 240.359(1), (3)(c), Florida Statutes, 1982 Supplement, relating to determinations of state financial support for community colleges; repealing s. 240.359(3)(d), Florida Statutes, 1982 Supplement, relating to community college funding for reduced enrollment; creating s. 240.381, Florida Statutes; creating the Florida Academic Improvement Trust Fund for Community Colleges and providing a procedure for the granting of matching funds therefrom; authorizing community colleges and district school boards to use certain funds for certain purposes; repealing s. 240.351, Florida Statutes, relating to determinations of instruction and transportation units for community colleges by the Department of Education; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—Strike everything after the enacting clause and insert:

Section 1. Subsection (11) is added to section 228.071, Florida Statutes, to read:

228.071 Community education.—

(11) *JOINT AGREEMENTS.*—District school boards and community college boards of trustees are authorized to submit joint grant applications, if an agreement between the boards is established. Such application shall be considered as a single grant application. For those grant applications approved for funding, the district school board is authorized to transfer all or part of such funds to the community college as specified in the contractual agreement.

Section 2. Section 229.52, Florida Statutes, is created to read:

229.52 State Board of Education, assistance in economic development.—

(1) To assist in the economic development of the state, the State Board of Education shall develop a state-level planning process to identify future training needs for industries, especially high technology industry.

(2) To assist in this planning and to assist in the state's economic development, the state board shall establish a clearinghouse for information on educational programs of value to the state's economic development. This clearinghouse should provide access to information on expertise of faculty and staff in public and independent institutions of postsecondary education and data on the quality and number of postsecondary education programs in areas critical to economic development.

Section 3. Paragraphs (g), (h), (i), (j), and (k) of subsection (3) of section 229.551, Florida Statutes, 1982 Supplement, are redesignated as paragraphs (h), (i), (j), (k), and (l), respectively, and a new paragraph (g) is added to said subsection to read:

229.551 Educational management.—

(3) As a part of the system of educational accountability, the department shall:

(g) *Conduct program evaluations for vocational education. These evaluations shall cover attainment of goals and objectives, manpower needs and placement, productivity, cost efficiency, and resource requirements. Funding for vocational education shall reflect the results of these evaluations.*

Section 4. Paragraph (l) of subsection (4) of section 230.23, Florida Statutes, 1982 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(4) **ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.**—Adopt and provide for the execution of plans for the establishment, organization, and operation of the schools of the district, as follows:

(l) *Comprehensive program of staff development.*—The board shall develop a comprehensive program of staff development. Such program shall include all services provided under the direction of the board and shall make adequate provision for the proper funding of such program. *Such program shall make adequate provision for personnel exchange programs to encourage staff in technical and vocational programs to periodically update their skills through employment experience in government and industry. The salary and benefits of district and state personnel participating in the exchange program shall be continued during the period of time they participate in the exchange program. Such personnel shall have no break in creditable or continuous state service or employment during the period of time in which they participate in the exchange program. The salary and benefits of all persons participating in such exchange programs, who are not employed by the district, shall be paid by the originating employers of those participants. The duties and responsibilities of a person participating in the exchange program shall be the same as those of the person he replaces.*

Section 5. Subsection (1) of section 240.115, Florida Statutes, is amended, subsections (3) and (4) are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, to read:

240.115 Articulation agreement; acceleration mechanisms.—

(1) *Articulation between secondary and postsecondary education, admission of Associate of Arts degree graduates from Florida community colleges and state universities, and the use of acceleration mechanisms, including the College Level Examination Program (CLEP), and articulation among programs in nursing shall be governed by the articulation agreement, as established by the Department of Education.*

(3) *The universities and boards of trustees of the community colleges shall identify their core curricula which shall include courses required by the State Board of Education. This shall be coordinated with secondary schools to prepare students for college level work.*

Section 6. Section 240.122, Florida Statutes, is created to read:

240.122 Postsecondary education funding.—Public postsecondary education institutions shall be funded on a program budgeting system that takes into consideration program needs as well as the number of students. The system shall assure that program review results are utilized in budget decisions.

Section 7. Section 240.125, Florida Statutes, is amended to read:

240.125 Postsecondary consortia; cooperation.—

(1) Community colleges and universities serving the same students in a geographic and service area *are encouraged to may* establish appropriate interinstitutional mechanisms to achieve cooperative planning and delivery of academic programs and related services, share a high-cost instructional facility and equipment, coordinate credit and noncredit outreach activities, have access to each other's library and media holdings and services, and provide cooperative campus activities and consultative relationships for the discussion and resolution of interinstitutional issues and problems which discourage student access or transfer.

(2) Public community colleges and universities *are encouraged to may* include independent colleges and universities *and industries* within their service areas in mutual planning of a comprehensive, complementary, cost-effective array of undergraduate and beginning graduate programs of study to serve that geographic area.

(3) *The Commissioner of Education is authorized to establish a Trust Fund for Postsecondary Cooperation. The trust fund shall be used to reward institutional creativity and initiative in assisting student articulation and in cooperating with local business and industry. These initiatives may include:*

(a) *Local consortia or institutional arrangements.*

(b) *Organized faculty and professional staff networks.*

(c) *Use of adjunct faculty from industry.*

(d) *Apprenticeship or cooperative training of students.*

(4) *The Postsecondary Education Planning Commission shall review, prioritize, and recommend to the commissioner proposals for use of these funds. The commissioner shall have authority to make grants from the trust fund.*

(5) *The Postsecondary Education Planning Commission shall recommend to the State Board of Education rules to implement this section.*

Section 8. Section 240.147, Florida Statutes, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(1) Serve as the state commission on postsecondary education designated under s. 1202 of the 1972 amendments to the Higher Education Act of 1965, Pub. L. No. 92-318.

(2) Prepare and submit to the State Board of Education a master plan for postsecondary education. The plan *shall should* include consideration of the promotion of quality, fundamental educational goals, programmatic access, needs for remedial education, regional and state economic development, demographic patterns, student demand for programs, needs of particular subgroups of the population, implementation of innovative educational techniques and technology, and the requirements of the labor market. The capacity of existing programs, in both public and independent institutions, to respond to identified needs *shall should* be evaluated and a plan *shall should* be developed to respond efficiently to unmet needs.

(3) *Recommend guidelines for the development of institutional roles, review plans of the postsecondary boards and institutions, and relay these plans to the State Board of Education and the Legislature.*

(4)(3) *Recommend to the State Board of Education contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education. These programs shall be reviewed, with the cooperation of the institution, every 5 years.*

(5)(4) *Recommend to the State Board of Education rules concerning the planning and coordination of postsecondary educational programs. These rules shall provide for the sector boards to assure that:*

(a) *Program reviews be conducted statewide.*

(b) *Every major program in public postsecondary education be reviewed every 5 years.*

(c) *Budget requests reflect program review results.*

(d) *Program decisions lead to the distinctive roles established for public universities and community colleges.*

(6)(6) *Advise the State Board of Education regarding the need for and location of new programs, institutions and campuses of public postsecondary education.*

(7) *Recommend to the State Board of Education and the Legislature the establishment of additional branch campuses of public postsecondary education institutions. No branch campus shall be established without a review by the commission and formal authorization by the Legislature. Any community college branch campus established to provide only exploratory, occupational proficiency, job preparatory and supplemental vocational and technical instruction must be reviewed and recommended again by the commission and receive specific authorization by the Legislature prior to expanding its instructional offerings to the college parallel program area.*

(8) *Review public postsecondary education budget requests for compliance with the state master plan before submission to the State Board of Education.*

(9)(6) *Assist the State Board of Education in the conduct of its postsecondary educational responsibilities in such capacities as the state board deems appropriate.*

(10)(7) *Update the state master plan for postsecondary education every 5 years.*

(11) *Evaluate the impact of new lower divisions at state universities on nearby institutions. The commission shall report to the State Board of Education on the extent to which implementing conditions are met.*

(12) *Review implementation of the state master plan and annually report to the State Board of Education and the Legislature the progress towards implementation.*

Section 9. Section 240.2091, Florida Statutes, is created to read:

240.2091 Board of Regents, other responsibilities.—

*The Board of Regents is responsible for the following:*

(1) *Considering the relationship between tuition and general revenue appropriations in recommending tuition levels to the Legislature.*

(2) *Coordinating with the Postsecondary Education Planning Commission the programs, including doctoral programs, to be reviewed every 5 years or whenever the board determines the effectiveness or efficiency of a program is jeopardized. The board shall define the indicators of quality and the criteria for program review for every program. Such indicators shall include need, student demand, and resources available to support continuation. The results of the program reviews shall be tied to the university budget requests.*

(3) *Coordinating the roles of the universities in order to best meet state needs and reflect cost-effective use of state resources.*

Section 10. Section 240.2095, Florida Statutes, is created to read:

240.2095 Board of Regents program approval.—

(1) *The Board of Regents shall establish criteria for the approval of new programs at state universities which include, but are not limited to, the following:*

(a) *New programs shall not be approved unless the same objectives cannot be met through use of educational technology;*

(b) *Unnecessary duplication of programs offered by independent institutions shall be avoided;*

(c) *Cooperative programs, particularly within regions, should be encouraged; and*

(d) *New programs shall be approved only if they are consistent with the state master plans adopted by the State Board of Education and the Board of Regents.*

(2) *The Board of Regents may approve the addition of lower levels to an upper level university if the university's plan for implementation provides for:*

(a) *A limitation on the enrollments of freshmen and sophomores in the new lower divisions as recognition of the community college system.*

(b) *Coordination of implementation with nearby independent and public postsecondary institutions regarding numbers of students and kinds of programs to be offered.*

(c) *Undergraduate education to remain the primary thrust of the university.*

(3) *The Board of Regents may approve new graduate level programs if:*

(a) *The university has taken into account the offerings of its counterparts, including institutions in other sectors, particularly at the regional level.*

(b) *The addition of the program does not alter the emphasis on undergraduate education.*

(c) *The regional need and demand for the graduate program was addressed and the community needs are obvious.*

Section 11. Section 240.243, Florida Statutes, is amended to read:

240.243 Required number of classroom teaching hours for university faculty members.—

(1) *As used in this section:*

(a) *“State funds” means those funds appropriated annually from the General Revenue Fund and Incidental Trust Fund for instructional institutional and research functions and, in the case of a health center, those funds appropriated from the General Revenue Fund and Operations and Maintenance Trust Fund for the same purposes.*

(b) *“Classroom contact hour” means a regularly scheduled 1-hour period of classroom activity, activities directly associated with instruction, or a combination of both, in a course of instruction which has been approved by the university.*

(2) *The full-time equivalent faculty positions appropriated by the Legislature in the instructional and research program component in the education and general budget shall generate an average of 9 classroom contact hours per week. Provided, however, that in computing the 9-hour average, the FTE appropriated faculty positions shall be adjusted for those positions held vacant to meet mandatory reserves and appropriated salary lapse. Records shall be maintained by each university, and reported to the Board of Regents on an annual basis, which show the number of full-time equivalent faculty positions appropriated by the Legislature and allocated to the university and the number of classroom contact hours generated by individuals appointed to these full-time equivalent positions. If a university does not maintain at least an average of 9 classroom contact hours per week per full-time equivalent faculty position, its allocation in the subsequent year shall be reduced by an amount equal to the difference between the number of full-time equivalent faculty positions required to attain an average of 9 classroom contact hours per week and the actual number of full-time equivalent faculty positions times the average faculty salary rate at that university. Each full-time equivalent teaching faculty member at a university who is paid wholly from state funds shall teach a minimum of 12 classroom contact hours per week at such university. However, any faculty member who is assigned by his departmental chairman or other appropriate university administrator professional responsibilities and duties in furtherance of the mission of the university shall teach a minimum number of classroom contact hours in proportion to 12 classroom*

hours per week as such especially assigned aforementioned duties and responsibilities bear to 12 classroom contact hours per week. Any full-time faculty member who is paid partly from state funds and partly from other funds or appropriations shall teach a minimum number of classroom contact hours in such proportion to 12 classroom contact hours per week as his salary paid from state funds bears to his total salary. In determining the appropriate hourly weighting of assigned duties other than classroom contact hours, the universities shall develop and apply a formula designed to equate the time required for nonclassroom duties with classroom contact hours. "Full-time equivalent teaching faculty member" shall be interpreted to mean all faculty personnel budgeted in the instruction and research portion of the budget, exclusive of those full-time equivalent positions assigned to research, public service, administrative duties, and academic advising. Full-time administrators, librarians, and counselors shall be exempt from the provisions of this section; and colleges of medicine and law and others which are required for purposes of accreditation to meet national standards prescribed by the American Medical Association, the American Bar Association, or other professional associations shall be exempt from the provisions of this section to the extent that the requirements of this section differ from the requirements of accreditation.

Section 12. Subsections (5), (6), and (7) of section 240.271, Florida Statutes, are amended to read:

240.271 State University System; funding.—

(5) If the actual enrollment for any university is less than the planned enrollment by zero to 5 percent for any fiscal year, and no more than 8 percent less for any biennium, the university shall receive full funding as allocated. If the actual enrollment is less than planned enrollment by more than 5 percent for any fiscal year or more than 8 percent for any biennium, the university's allocation for instruction shall be reduced proportionately to the difference between 5 percent and the actual percentage reduction in enrollment for any fiscal year, or the difference between 8 percent and the actual percentage reduction in enrollment for the biennium, whichever is larger. If actual enrollment exceeds target enrollment, there shall be no increased allocation, and an explanation of the excess shall be provided with the next year's enrollment plan.

(6) For the 1979-1981 biennium, any quality improvement funds appropriated by the Legislature for the State University System and referenced to this section shall be allocated in the following manner:

(a) All disciplines shall be categorized as follows:

- 1. Category I—The laboratory sciences and technical disciplines.
2. Category II—The professional and education disciplines.
3. Category III—The fine arts and foreign language disciplines.
4. Category IV—All other disciplines.
5. Category V—Law.

(b) For allocation purposes, the Board of Regents shall divide any quality improvement funds among the different levels and categories in the following manner:

Table with 2 columns: Category and Percentage. Rows include Lower level: category I-V and Upper level: category I-IV, and Beginning graduate: category I-V.

- 14. Advanced graduate: category I . . . . . .2
15. Advanced graduate: category II . . . . . .4
16. Advanced graduate: category III . . . . . .0.5
17. Advanced graduate: category IV . . . . . .2

(c) Each university shall receive funds for quality improvement in a lump-sum allocation for each fiscal year of the biennium and shall expend these funds in accordance with cost data analysis and university priorities in conformance with the systemwide and university master plans.

(d) However, any increase in salary rate resulting from new positions shall not exceed 25 percent of each university's total allocation for quality improvement in fiscal year 1979-1980.

(6)(7) The enrollment planning plus program cost data established by this section may be phased in as practicable during the 1979-1981 biennium but shall be used as the basis for preparing the legislative budget requests for succeeding fiscal years bienniums.

Section 13. Section 240.312, Florida Statutes, is created to read:

240.312 Community colleges, program review.—Program reviews for the community college system shall be coordinated with the Postsecondary Education Planning Commission every year. Every major program shall be reviewed every 5 years or whenever the effectiveness or efficiency of a program is jeopardized. Indicators of quality and criteria for the program reviews shall be defined. The results of these program reviews shall be tied to the budget request for the community college system.

Section 14. Paragraphs (v) and (w) are added to subsection (3) of section 240.319, Florida Statutes, 1982 Supplement, to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules and procedures for the boards of trustees include, but are not limited to, the following:

(v) Each board of trustees is authorized to establish and maintain a personnel exchange program, by which persons employed within the community college as vocational instructors and comparable administrative and professional staff may be exchanged with persons employed in like capacities by institutions of higher learning which are not under the jurisdiction of the community college, by units of government either within or without this state, or by private industry. The salary and benefits of community college and state personnel participating in the exchange program shall be continued during the period of time they participate in the exchange program, and such personnel shall be deemed to have no break in creditable or continuous state service or employment during the period of time in which they participate in the exchange program. The salary and benefits of persons participating in the personnel exchange program who are employed by institutions, units of government, or private industry shall be paid by the originating employers of those participants. The duties and responsibilities of a person participating in the exchange program shall be the same as those of the person he replaces.

(w) Each board of trustees is authorized to permit full-time personnel who have been employed for at least 6 months by the community college and who meet the admission requirements set by the board, and their dependents, to enroll in a maximum of 6 credit or equivalent hours per term without payment of matriculation or tuition fees. The credit hours generated by these employees shall not be reported as full-time equivalents, except as fee waivers.

Section 15. Section 240.320, Florida Statutes, is created to read:

240.320 Community college program approval.—The policy of the state with respect to the approval of new programs at public community colleges is that:

- (1) New programs should not be approved unless the same objectives cannot be met through use of educational technology.
(2) Unnecessary duplication of programs offered by independent institutions should be avoided.
(3) Cooperative programs, particularly within regions, should be encouraged.

(4) *New programs should only be approved if they are consistent with the state master plan adopted by the State Board of Education.*

Section 16. Section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—The board of trustees shall make rules governing admissions of students and fees pursuant to provisions of this part. Admission to the Associate of Arts Degree program shall require a high school diploma or its equivalent, except as provided in s. 240.115(4)(3). *Admission to other programs within the community college shall include education requirements as established by the board of trustees. Nonresident students may be admitted to the community college upon such terms as the board may establish.*

Section 17. Subsection (5) of section 240.325, Florida Statutes, is amended to read:

240.325 Minimum standards, definitions, and guidelines for community colleges.—The State Board of Education shall prescribe minimum standards, definitions, and guidelines for community colleges which will assure quality education, systemwide coordination, and that the purposes of the community college are attained. Such guidelines may include, but are not limited to, the following areas:

(5) Student admissions, conduct and discipline, nonclassroom activities, and fees. *Guidelines for setting tuition fees should provide for consideration of the relationship between tuition and state general revenue appropriations.*

Section 18. Subsection (1) of section 240.353, Florida Statutes, is amended to read:

240.353 Procedure for determining number of instruction units for community colleges.—The number of instruction units for community colleges in districts which meet the requirements of law for operating a community college shall be determined from the full-time equivalent students in the community college, provided that full-time equivalent students may not be counted more than once in determining instruction units. Instruction units for community colleges shall be computed as follows:

(1) One unit for each 12 full-time equivalent students at a community college for the first 420 students and one unit for each 15 full-time equivalent students for all over 420 students, in other than vocational programs as defined by rules of the State Board of Education, and one unit for each 10 full-time equivalent students in vocational programs and compensatory education programs as defined by rules of the State Board of Education. ~~Full-time equivalent students enrolled in a community college shall be defined by the Legislature rules of the State Board of Education.~~

Section 19. Subsection (1) and paragraphs (c) and (d) of subsection (3) of section 340.359, Florida Statutes, 1982 Supplement, are amended to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE STATE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(a) The Department of Education shall determine annually from an analysis of operating costs, prepared in the manner prescribed by rules of the State Board of Education, the costs per full-time equivalent student served in courses and fields of study offered in community colleges. *This information shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature. Such fields of study shall be classified into multilevel cost categories in relation to the average statewide costs and the costs adjusted to the year of apportionment for changes in economic conditions and other factors as prescribed by rules of the State Board of Education.*

(b) The allocation of funds for community colleges shall be based on advanced and professional disciplines, vocational program areas, compensatory programs, and adult elementary and secondary programs. The vocational program areas shall be further subdivided into postsecondary, postsecondary adult, and supplemental vocational program areas.

~~(e) The amounts determined by multiplying the cost of each field of study times the full-time equivalent students estimated by the Department of Education shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature.~~

(c)(d) The State Board of Education shall adopt rules to implement s. 9(d)(8)f., Art. XII of the State Constitution. These rules shall provide for the use of the funds available under s. 9(d)(8)f., Art. XII by an individual community college for operating expense in any fiscal year during which the State Board of Education has determined that all major capital outlay needs have been met. Highest priority for the use of these funds for purposes other than financing approved capital outlay projects shall be for the proper maintenance and repair of existing facilities for projects approved by the State Board of Education. However, in any fiscal year in which funds from this source are authorized for operating expense other than approved maintenance and repair projects, the allocation of community college program funds shall be reduced by an amount equal to the sum used for such operating expense for that community college that year, and that amount shall not be released or allocated among the other community colleges that year.

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(c) The apportionment to each community college from the community college program fund for current operations shall be based on an assigned full-time equivalent enrollment as determined in paragraphs (a) and (b) and shall consider the cost level of each field of study ~~and such other factors as prescribed by rules of the State Board of Education.~~

(d) If the actual enrollment for any community college is from 0 to 5 percent or 100 full-time equivalent students, whichever is greater, less than the assigned enrollment for any fiscal year, ~~and no more than 8 percent less for any biennium~~, the college shall receive full funding as allocated. If the actual enrollment is more than 5 percent below the assigned enrollment for any fiscal year ~~or more than 8 percent below for any biennium~~, the allocation of the college for direct instructional cost shall be reduced proportionately to the difference between 5 percent and the actual percentage reduction in enrollment for any fiscal year ~~or the difference between 8 percent and the actual percentage reduction in enrollment for the biennium, whichever is larger~~. If actual enrollment of a college exceeds the assigned enrollment, there shall be no increased allocation.

Section 20. Section 240.381, Florida Statutes, is created to read:

240.381 Florida Academic Improvement Trust Fund for Community Colleges.—

(1) There is hereby created the Florida Academic Improvement Trust Fund for Community Colleges to be administered according to State Board of Education rules. This trust fund shall be used to encourage private support in enhancing the public community colleges by providing community colleges with the opportunity to receive and match challenge grants.

(2) Funds appropriated shall be deposited in the trust fund and shall be invested pursuant to s. 215.535. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for challenge grants.

(3) For every year in which there is a legislative appropriation to the trust fund, funds sufficient to provide each community college with the opportunity to match at least one challenge grant shall be reserved. Trust funds in excess of this amount shall be available for matching by all community colleges. The State Board of Education shall adopt rules providing all community colleges with an opportunity to apply for excess trust funds prior to the awarding of such funds.

(4) Challenge grants shall be allocated from the trust fund on the basis of one \$25,000 challenge grant for each \$25,000 raised from matching sources. The matching funds shall come from contributions made after July 1, 1983, which are pledged for purposes of matching this grant.

(5) Each community college shall establish its own Academic Improvement Trust Fund as a depository for the private contributions and matching state fund established herein. The foundation at each community college shall be responsible for the maintenance, investment, and administration of its Academic Improvement Trust Fund.

(6) The sum of \$25,000 shall be transferred from the state trust fund to the community college foundation upon notification that the community college has received and deposited \$25,000 in its own trust fund.

(7) The board of trustees of the community college shall be responsible for determining the uses for the proceeds of the trust fund. Such uses may include:

- (a) Scientific and technical equipment.
- (b) Professional development and training for faculty.
- (c) Other activities appropriate to improving the quality of education at the community college.

Proposals for use of the trust fund shall be submitted to the State Community College Coordinating Board for approval. Any proposal not acted upon in 60 days shall be considered approved.

(8) The State Board of Education shall establish rules to provide for the administration of this fund.

(9) If the legislative appropriation for the trust fund is not sufficient to provide grants of \$25,000, the minimum grant shall be specified in the General Appropriations Act.

Section 21. Section 240.351, Florida Statutes, is hereby repealed.

Section 22. This act shall take effect upon becoming a law.

**House Amendment 1 to House Amendment 1**—On page 22, between lines 27 and 28, insert the following and renumber subsequent sections

Section 40. Subsections (3), (5), and (6) and paragraph (c) of subsection (4) of section 20.15, Florida Statutes, are amended to read:

20.15 Department of Education.—There is created a Department of Education.

(3) The Board of Regents is the director of the Division of Universities and the State Board of Community Colleges is the director of the Division of Community Colleges pursuant to chapter 240. The directors of all other divisions shall be appointed by the commissioner subject to approval by the state board.

(4) The State Board of Education and the Commissioner of Education:

(c) Shall assign to the *State Board* ~~Division~~ of Community Colleges such powers, duties, responsibilities, and functions as shall be necessary to ensure the coordination, efficiency, and effectiveness of community colleges, except those duties specifically assigned to the Commissioner of Education in ss. 229.512 and 229.551 and the duties concerning physical facilities in chapter 235.

(5) Notwithstanding anything contained in law to the contrary, all members of all councils and committees of the Department of Education, except the Board of Regents, the *State Community College Coordinating Board of Community Colleges*, the state instructional materials councils, and the community college district boards of trustees, shall hereafter be appointed by the State Board of Education from a list of two or more names nominated for each position by the Commissioner of Education.

(6) Notwithstanding anything contained in law to the contrary, all members of the Board of Regents, the *State Community College Coordinating Board of Community Colleges*, and the community college district boards of trustees shall be appointed according to chapter 240.

Section 41. Paragraph (b) of subsection (1) and subsection (21) of section 228.041, Florida Statutes, 1982 Supplement, are amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(1) STATE SYSTEM OF PUBLIC EDUCATION.—The state system of public education shall consist of such publicly supported and controlled schools, institutions of higher education, other educational institutions, and other educational services as may be provided or authorized by the Constitution and laws of Florida.

(b) Community colleges.—Community colleges shall consist of all educational institutions which are operated by local community college district boards of trustees under specific authority and regulations of the State Board of Education and which offer courses and programs of general and academic education parallel to that of the first and second years of work in institutions in the State University System, of vocational education, and of adult continuing education.

(21) COMMUNITY COLLEGE DISTRICT.—A community college district is a part of the state system of public education. It shall consist of such centers, courses, and services as are authorized by the State Board of Education under control of the district board of trustees.

Section 42. Paragraph (p) is added to subsection (2) of section 229.053, Florida Statutes, 1982 Supplement, to read:

229.053 General powers of state board.—

(2) The board has the following duties:

(p) To recommend to the Legislature the establishment of branch campuses of the public community colleges.

Section 43. Subsection (1) of section 229.512, Florida Statutes, is amended, subsections (2) through (13) are renumbered as subsections (3) through (14), respectively, and a new subsection (2) is added to said section to read:

229.512 Commissioner of Education, general powers and duties.—The Commissioner of Education is the chief educational officer of the state, and he has the following general powers and duties:

(1) To appoint staff necessary to carry out his powers and duties, except that appointment of all division directors shall be subject to approval by the State Board of Education, except the Board of Regents, whose members shall be appointed pursuant to s. 240.207, and the ~~State Community College Coordinating Board of Community Colleges~~, whose members shall be appointed pursuant to s. 240.307;

(2) To suspend, for cause, with State Board of Education approval, a public community college president. Such suspension shall be acted upon expeditiously by the local community college board of trustees;

Section 44. Subsection (2) of section 235.05, Florida Statutes, is amended to read:

235.05 Right of eminent domain.—

(2) The board of trustees may exercise the right of eminent domain as provided in s. 240.319(3)(d)(f).

Section 45. Paragraph (a) of subsection (5) of section 235.435, Florida Statutes, 1982 Supplement, is amended to read:

235.435 Funds for comprehensive educational plant needs —Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(5)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session. The *State Board* ~~Division~~ of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth and quality improvement in education. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

Section 46. Section 240.301, Florida Statutes, is amended to read:

240.301 Community College System; *definition and mission defined.*—

(1) State community colleges shall consist of all public educational institutions operated by community college district boards of trustees under statutory authority and rules of the State Board of Education and the *State Board of Community Colleges* ~~shall maintain the primary responsibility for lower-level undergraduate instruction.~~ A community

college may be authorized by the State Board of Education to operate a department designated as an area-vocational education school. A *community college* may be authorized by the State Board of Education, or through an agreement with a local school board, and authorized to operate adult high schools. These institutions may grant the associate in arts and associate in science degrees, certificates, awards, and diplomas. The total program offerings of the community colleges may include, but not be limited to, courses as components of programs leading to the above-mentioned degrees, certificates, awards, and diplomas; vocational and technical offerings leading directly to employment; compensatory, adult basic, elementary, and secondary education; other general or liberal arts courses sought by the citizens of the community for personal development; and other community services.

(2) The primary mission for and responsibility of the public community colleges shall be responding to the community needs for postsecondary academic and postsecondary vocational education. This includes having:

(a) The responsibility for providing lower level undergraduate instruction and awarding associate degrees.

(b) The responsibility for preparing students directly for vocations requiring less than a baccalaureate degree. This may include preparing for job entry, supplementing of skills and knowledge, and responding to needs in new areas of technology. Vocational education in the community college shall consist of programs leading to an Associate of Science degree and other programs in fields requiring substantial academic work, background, or qualifications. The community college may offer vocational programs in fields having lesser academic or technical requirements if designated by the State Board of Education as an area-vocational school or if such programs are coordinated with the local school district through an agreement with the school board.

(3) A separate and secondary role for the community colleges includes the offering of programs in:

(a) Community instructional services which are not directly related to academic or occupational advancement.

(b) Adult precollege education, when authorized.

(c) Recreational and leisure services.

(4) The community colleges are authorized to offer such programs and courses as necessary to fulfill this mission and are authorized to grant the associate in arts and associate in science degrees, certificates, awards, and diplomas.

Section 47. Section 240.305, Florida Statutes, is amended to read:

240.305 State Community College Coordinating Board of Community Colleges; establishment.—There is established a State Community College Coordinating Board of Community Colleges of the Department of Education with the necessary powers to exercise responsibility for statewide leadership in overseeing and coordinating the individually governed public community colleges. Nothing contained herein shall change the existing division of responsibilities between state agencies and local boards of trustees, and There shall continue to be maximum local autonomy in the governance and operation of individual community colleges. The board shall be subject at all times to the overall supervision of the State Board of Education.

Section 48. Subsections (1) and (4) of section 240.307, Florida Statutes, are amended to read:

240.307 State Community College Coordinating Board of Community Colleges; appointment of members; qualifications.—

(1) The State Community College Coordinating Board of Community Colleges shall be comprised of the Commissioner of Education, one student, and 11 lay citizens 11 members appointed by the Governor, approved by four members of the State Board of Education, and confirmed by the Senate in regular session. At least two of the lay citizen members shall be sitting or former members of a community college board of trustees. The Commissioner of Education may nominate two or more persons for each position, prior to appointment by the Governor. The State Board of Education shall adopt rules and procedures for its review and approval of nominees. Members shall have been residents and citizens of Florida for at least 10 years prior to appointment.

(a) All members shall be deemed to be members-at-large charged with the responsibility of serving the entire state.

(b) Terms of initial membership of the lay citizens shall be as follows: two members shall be appointed for 2 years, three members shall be appointed for 3 years, three members shall be appointed for 4 years, and three members shall be appointed for 5 years. Upon expiration of terms of initial membership, terms of office shall be for 5 years.

(c) Lay citizen members of the State Board of Community Colleges shall be appointed in a manner providing equitable geographical representation.

(b) The coordinating board shall consist of at least nine incumbent members of community college district boards of trustees at all times. The terms of initial membership shall be as follows: two members shall be appointed for 1 year, two members shall be appointed for 2 years, two members shall be appointed for 3 years, and three members shall be appointed for 4 years.

(c) Members of the board shall be appointed from four community college district groups as follows:

1. Three members shall be appointed from Group One, which consists of Brevard Community College, Broward Community College, Florida Junior College at Jacksonville, Hillsborough Community College, Miami Dade Community College, Pensacola Junior College, and St. Petersburg Junior College.

2. Two members shall be appointed from Group Two, which consists of Daytona Beach Community College, Indian River Community College, Palm Beach Junior College, Polk Community College, Santa Fe Community College, Seminole Community College, and Valencia Community College.

3. Two members shall be appointed from Group Three, which consists of Central Florida Community College, Edison Community College, Gulf Coast Community College, Lake City Community College, Manatee Junior College, Okaloosa Walton Junior College, and Tallahassee Community College.

4. Two members shall be appointed from Group Four, which consists of Chipola Junior College, Florida Keys Community College, Lake Sumter Community College, North Florida Junior College, Pasco Hernando Community College, St. Johns River Community College, and South Florida Junior College.

(d) One member shall be selected from the state at large. The term of initial membership shall begin on January 1, 1980, and shall be 4 years. Upon expiration of the term of initial membership, terms of office shall be for 4 years.

(d)(e) The student One member shall be registered as a student in a public community college and shall have been a resident of this state for at least 5 years. The term of office shall be 1 year. The president of the Florida Junior College Student Government Association. The term of office shall be 1 year, which shall coincide with the term of office as president. Such member shall be exempt from the aforementioned residency requirement.

(4) The members of the State Community College Coordinating Board of Community Colleges shall receive no compensation but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their duties and in traveling to, from, or upon the same.

Section 49. Subsection (1) of section 240.309, Florida Statutes, is amended to read:

240.309 State Community College Coordinating Board of Community Colleges; organization; meetings; fiscal year.—

(1) The State Community College Coordinating Board of Community Colleges shall, within 60 days after its appointment, organize, adopt a seal, and adopt rules for administration and procedures not inconsistent herewith and may from time to time amend such rules. At its organizational meeting, the board shall elect from among its members a chairman and vice chairman, each to serve for 1 year, and annually thereafter shall elect such officers who shall serve for 1-year terms until their successors are elected. At its organizational meeting, the board shall fix a date and place for its regular meetings. Seven Six members shall constitute a quorum, and no meeting shall be held with less than a quorum present. The board may appoint members to such committees as it from time to time shall establish. Members of said committees may include persons who are not members of the board.

Section 50. Section 240.311, Florida Statutes, 1982 Supplement, is amended to read:

240.311 State Community College Coordinating Board of Community Colleges; powers and duties.—

(1) *The State Board of Community Colleges shall serve as the director of the Division of Community Colleges of the Department of Education.*

(2)(4) *The State Community College Coordinating Board of Community Colleges shall be responsible for the establishing and developing of rules and policies which will ensure the operation and maintenance of a State Community College System, as defined in s. 228.041(1)(b), in a coordinated, efficient, and effective manner. Such rules and policies shall be submitted to the State Board of Education for approval or amendment. If any rule is not disapproved by the State Board of Education within 45 30 days of its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State. If any rule is amended by the State Board of Education, adoption of such rule shall be delayed until a subsequent meeting. Such rules and policies shall:*

(3) *The State Board of Community Colleges shall:*

(a) *Provide for each community college to offer educational training and service programs designed to meet the needs of both students and the communities served; however, a community college shall not be required to offer a vocational or adult basic education program when such program is already operating in the district.*

(b) *Provide, through rule, for the coordination of the State Community College System, including establishing ranges for student fees.*

(c) *Review new associate degree or certificate programs for relationship to student demand; conduct periodic reviews of existing programs; and provide rules for termination of associate degree or certificate programs where excessive duplication exists.*

(d)(4) *Ensure that rules and procedures of community college district boards relating to admission to, enrollment in, employment in, and programs, services, functions, and activities of each college provide equal access and equal opportunity for all persons.*

(e) *Be notified of the appointment of presidents of community colleges; advise presidents of fiscal policies adopted by the Legislature and of their responsibilities to follow such policies; and formally review the evaluations of presidents by the boards of trustees.*

(f) *Specify, by rule, procedures to be used by the boards of trustees in the periodic evaluations of presidents.*

(g)(e) *Recommend to the State Board of Education minimum standards for the operation of each community college as required in s. 240.325, which standards may include, but not be limited to, general qualifications of personnel, budgeting, accounting and financial procedures, educational programs, student admissions and services, and community services.*

(h)(d) *Establish an effective information system which will provide composite data about the community colleges and assure that special analyses and studies about the colleges are conducted, as necessary, for provision of accurate and cost-effective information about the colleges and about the community college system as a whole.*

(i)(e) *Encourage the colleges and the system as a whole to cooperate with other educational institutions and agencies and with all levels and agencies of government in the interest of effective utilization of all resources, programs, and services.*

(j)(f) *Establish criteria for making recommendations relative to modifying district boundary lines and for making recommendations upon all proposals for the establishment of additional centers or campuses for community colleges.*

(k) *Develop a plan in cooperation with the local school district and the Department of Education to include any and all counties in a community college service district.*

(l) *Assess the need to consolidate any community colleges.*

(4)(2) *The State Board of Community Colleges Commissioner of Education shall appoint, and may suspend or dismiss, with the concurrence of the Commissioner of Education, an Executive Director of the*

*Community College System. a chief administrative officer, who shall be the director of the Division of Community Colleges. The chief administrative officer shall be responsible for the coordination of the State Community College System under policies and rules prescribed by the board; shall advise the board on all educational problems; shall supervise the board's statewide studies and make recommendations for plans to meet the state's obligations in community college education; The Executive Director shall serve as executive officer and as secretary to the board; shall attend, but not vote at, all meetings of the board except when on authorized leave; shall be in charge of the offices of the board, including appointment and termination of staff; and shall be responsible for the preparation of reports and the collection and dissemination of data and other public information relating to the State Community College System. The Executive Director shall conduct systemwide program reviews for board approval; shall prepare the legislative budget request for the system; and, upon board request, represent the system before the Legislature and the State Board of Education including the presentation of proposed rules to the State Board of Education. The board may, by rule, delegate to the Executive Director chief administrative officer any of the powers and duties vested in or imposed upon it by this part. Under the supervision of the board, the Executive Director chief administrative officer shall administer the provisions of this part and the rules established hereunder and all other applicable laws of the state.*

(5)(3) *The State Board of Community Colleges shall be responsible for reviewing and administering the state program of support for the State Community College System and, subject to existing law, shall:*

(a) *Review and approve all budgets and recommended budget amendments in the State Community College System.*

(b) *Recommend to the Commissioner of Education all requests for appropriations for inclusion in the Commissioner of Education's budget presentation to the Governor, as chief budget officer of the state, in the manner provided in chapter 216.*

(c) *Provide for and coordinate implementation of the community college program fund in accordance with provisions of ss. 240.359 and 240.323 and in accordance with rules of the State Board of Education.*

(d) *Adopt, and submit to the Legislature, a 3-year priority list for fixed capital outlay projects.*

(6) (4) *The State Board of Community Colleges is authorized to exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this part, except that powers and duties granted to the several district boards of trustees by ss. 240.315, 240.317, 240.319, and 447.203 shall remain with the several district boards of trustees.*

Section 51. Subsections (3) and (6) of section 240.313, Florida Statutes, are amended to read:

240.313 Community college districts; establishment and organization of boards of trustees.—

(3) *Trustees shall be appointed by the Governor, approved by four three members of the State Board of Education Cabinet, and confirmed by the Senate, in regular session; however, no appointee shall take office until after his appointment has been approved by four three members of the State Board of Education Cabinet; further, the State Board of Education shall develop rules and procedures for review and approval of the appointees. Prior to the time the Governor appoints any member of any community college district board of trustees, the school board or boards in the community college district may submit to the Governor for his consideration the names of two or more persons for each office.*

(6) *A community college president shall be the executive officer and corporate secretary of the board of trustees as well as the chief administrative officer of the community college, and all the components of the institution and all aspects of its operation are responsible to the board of trustees through the president. When a vacancy occurs in the office of community college president, the board of trustees will select and appoint a person to fill that office. Community college presidents so appointed shall serve until such time as they vacate their offices or are removed for good cause by the board of trustees.*

Section 52. Section 240.317, Florida Statutes, is amended to read:

240.317 Community colleges; legislative intent.—It is the legislative intent that community colleges, constituted as political subdivisions of the state, continue to be operated by district boards of trustees as pro-

vided in s. 240.315 and that no department, bureau, division, agency, or subdivision of the state shall exercise any responsibility and authority to operate any community college of the state except as specifically provided by law or rules of the State Board of Education *and State Board of Community Colleges*.

Section 53. Section 240.319, Florida Statutes, 1982 Supplement, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(1) Community college district boards of trustees are vested with the responsibility to operate their respective community colleges and with such necessary authority as may be needed for the proper operation and *improvement* thereof in accordance with rules of the State Board of Education *and State Board of Community Colleges*.

(2) In carrying out this responsibility, the trustees, after considering recommendations submitted by the community college president, shall be authorized to adopt such rules, ~~and~~ *procedures and policies* as are necessary to operate the community college in such a manner as to assure the fulfillment of the responsibilities assigned to the board of trustees. *These rules, procedures and policies may supplement those prescribed by the State Board of Education and the State Board of Community Colleges if they will contribute to the more orderly and efficient operation of the State Community College System.*

(3) Such rules, ~~and~~ *procedures and policies* for the boards of trustees include, but are not limited to, the following:

(a) *Each board of trustees shall appoint, suspend or remove the president of the community college. The board of trustees may appoint a search committee. The trustees shall submit their selection for president to the State Board of Community Colleges. Periodic evaluations of the president shall be conducted in accordance with State Board of Community Colleges rule and shall be submitted to the State Board of Community Colleges for review.*

(b) *Each board of trustees shall have responsibility for proposing new programs to the State Board of Community Colleges and for terminating programs according to State Board of Community Colleges rule.*

~~(a) Each board of trustees shall determine and adopt such policies as are deemed necessary by it for the efficient operation and general improvement of the community college.~~

~~(b) Each board of trustees shall adopt such rules to supplement those prescribed by the State Board of Education as in its opinion will contribute to the more orderly and efficient operation of the community college and to the provision of educational services to all qualified citizens of the community college district.~~

~~(c) Each board of trustees shall adopt such minimum standards consistent with and no less stringent than those of the State Board of Education, including, but not limited to:~~

~~1. The prescribing of student performance standards for the award of certificates or degrees.~~

~~2. The establishment and discontinuance of program and course offerings; provision for instructional and noninstructional community services, location of classes, and services provided; and dissemination of information concerning such programs and services.~~

(c)(d) Each board of trustees shall constitute the contracting agent of the community college. It may when acting as a body make contracts, sue, and be sued in the name of the board of trustees. In any suit, a change in personnel of the board shall not abate the suit, which shall proceed as if such change had not taken place.

~~(e) Each board of trustees shall perform those duties and exercise those responsibilities which are assigned to it by law or by rules of the State Board of Education and in addition thereto those which it may find necessary for the improvement of the community college.~~

(d)(f) Whenever the Department of Education finds it necessary for the welfare and convenience of any community college to acquire private property for the use of the community college and the same cannot be acquired by agreement satisfactory to the district board of trustees of such community college and the parties interested in, or the owners of, the private property, the district board of trustees may exercise the right

of eminent domain after receiving approval therefor from the State Board of Education and may then proceed to condemn the property in the manner provided by chapters 73 and 74.

~~(e)(g)~~ Each board of trustees may enter into lease-purchase arrangements with private individuals or corporations for necessary grounds and buildings for community college purposes, other than dormitories, or for buildings other than dormitories to be erected for community college purposes. Such arrangements shall be paid from capital outlay and debt service funds as provided by s. 240.359(4), with terms not to exceed 30 years at a stipulated rate. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without said approval. The State Board of Education is authorized to promulgate such rules as it deems necessary to implement the provisions of this paragraph.

~~(f)(h)~~ Each board of trustees may purchase, acquire, receive, hold, own, manage, lease, sell, dispose of, and convey title to real property, in the best interests of the college, pursuant to rules adopted by the State Board of Education.

~~(g)(i)~~ Each board of trustees is authorized to enter into agreements for, and accept, credit card payments as compensation for goods, services, tuition, and fees. However, no discount shall be given and no service charge assessed. Each community college is further authorized to establish accounts in credit card banks for the deposit of credit card sales invoices.

~~(h)(j)~~ Each board of trustees may adopt, by rule, a uniform code of appropriate penalties for violations of rules by students and employees. Such penalties, unless otherwise provided by law, may include fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal.

~~(i)(k)~~ Each board of trustees may consider the past actions of any person applying for admission or employment and may provide, by board rule or procedure, for denying admission, enrollment, or employment to a person if past actions have been found to disrupt or interfere with the orderly conduct, processes, functions, or programs of any other university, college, or community college.

(j)(l) Each board of trustees is authorized to develop and produce work products which relate to educational endeavors which are subject to trademark, copyright, or patent statutes. To this end, the board shall consider the relative contribution by the personnel employed in the development of such work products and shall enter into binding agreements with such personnel, organizations, corporations, or government entities, which agreements shall establish the percentage of ownership of such trademarks, copyrights, or patents. Any other law to the contrary notwithstanding, the board is authorized in its own name to:

1. Perform all things necessary to secure letters of patent, copyrights, and trademarks on any such work products and to enforce its rights therein.

2. License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use thereof, on a royalty basis or for such other consideration as said board shall deem proper.

3. Take any action necessary, including legal action, to protect the same against improper or unlawful use of infringement.

4. Enforce the collection of any sums due said board for the manufacture or use thereof by any other party.

5. Sell any of the same and execute all instruments necessary to consummate any such sale.

6. Do all other acts necessary and proper for the execution of powers and duties provided by this paragraph.

~~(k)(m)~~ Each board of trustees shall provide rules governing parking and the direction and flow of traffic within campus boundaries and may hire appropriate personnel to enforce campus parking rules. Such persons shall have no authority to arrest or issue citations for moving traffic violations. The board of trustees may adopt, by rule, a uniform code of appropriate penalties for violations. Such penalties, unless otherwise provided by law, may include the levying of fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal. Moneys collected from parking rule infractions shall be deposited in appropriate funds at each community college for student financial aid purposes.

(l)(n) Each board of trustees shall provide for the appointment, employment, and removal of personnel, ~~including the president of the community college, and The board shall determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel, including the president. It may appoint a search committee for making recommendations to the board for the selection of the president. The activities of the committee, up to the point of transmitting a list of nominees to the board, shall be exempted from the provisions of s. 286.011 and chapter 119.~~ The board is authorized to enter into a contract with the president in accordance with the provisions of this chapter. Any such contract may fix the duration of employment and the compensation therefor and may contain any other terms and conditions the board may deem appropriate. In addition, the board may furnish the president with the use of a motor vehicle or an allowance in lieu thereof. If any such vehicle is furnished, the board shall determine and fix the maximum noncollege use of the same.

(m)(e) Each board of trustees may provide for recognition of employees who have contributed outstanding and meritorious service in their fields and may adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing community college expenditures or improving community college operations. The community college is authorized to expend funds for such recognition and awards. No award granted under the provisions of this paragraph shall exceed \$2,000 or 10 percent of the first year's gross savings, whichever is greater.

~~(p) Each board of trustees shall provide admissions counseling to all students entering college credit programs, which counseling shall utilize tests designated by the Articulation Coordinating Committee to measure achievement of college-level communication and computation competencies by all students entering college credit programs.~~

~~(q) Each board of trustees may limit students whose level of achievement of communication and computation skills is below that defined by the college as required for successful performance in a college credit program to compensatory courses and any other instruction for which they are adequately prepared.~~

~~(r) Effective August 1, 1984, each board of trustees shall require the use of scores on tests for college-level communication and computation skills provided in s. 229.551 as a condition for graduation with an Associate of Arts degree. Use of test scores prior to August 1, 1984, shall be limited to student counseling and curriculum improvement.~~

(n)(e) Each board of trustees may adopt rules to provide for loans, scholarships, and other student services.

(o)(t) Each board of trustees is authorized to establish a policy for law enforcement operations. The law enforcement operations policy shall be restricted to the protection of employees, students, and property of the community college. Criminal investigations are specifically prohibited under this paragraph. Each board of trustees is authorized to employ personnel to carry out the duties imposed by this paragraph.

(p)(u) Each board of trustees is authorized to contract for the purchase, lease, or acquisition in any manner (including purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased) of equipment required by the college.

Section 54. Section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—The board of trustees shall make rules governing admissions of students ~~and fees pursuant to provisions of this part. These rules shall include the following:~~

(1) Admissions counseling to all students entering college credit programs, which counseling shall utilize tests designated by the Articulation Coordinating Committee to measure achievement of college-level communication and computation competencies by all students entering college credit programs.

(2) Admission to the Associate of Arts Degree program shall require:

(a) A high school diploma or its equivalent, except as provided in s. 240.115(3).

(b) A demonstrated level of achievement of the college-level communication and computation skills.

(c) Any other requirements established by the board of trustees.

(3) Admission to other programs within the community college shall include education requirements as established by the board of trustees.

(4) Nonresident students may be admitted to the community college upon such terms as the board may establish.

Section 55. Section 240.3215, Florida Statutes, is created to read:

240.3215 Community college district board of trustees; degrees and certificates.—

(1) Each board of trustees shall adopt rules establishing student performance standards for the award of degrees and certificates.

(2) Effective August 1, 1984, each board of trustees shall require the use of scores on tests for college-level communication and computation skills provided in s. 229.551 as a condition for graduation with an Associate of Arts degree. Use of test scores prior to August 1, 1984, shall be limited to student counseling and curriculum improvement.

Section 56. Subsection (1) of section 240.327, Florida Statutes, is amended to read:

240.327 Planning and construction of community college facilities; property acquisition.—

(1) The need for community college facilities shall be established by a survey conducted pursuant to chapter 235; the facilities recommended by such survey must be approved by the State Board of Education; and the projects must be constructed according to the provisions of chapter 235 and State Board of Education rules.

Section 57. Section 240.335, Florida Statutes, 1982 Supplement, is amended to read:

240.335 Employment of community college personnel; discrimination in granting salary prohibited.—

(1) Employment of all personnel in each community college shall be upon recommendation of the president, subject to rejection for cause by the board of trustees; to the rules and regulations of the State Board of Education relative to certification, tenure, leaves of absence of all types, including sabbaticals, remuneration, and such other conditions of employment as the State Board of Community Colleges deems necessary and proper; and to policies of the board of trustees not inconsistent with law.

(2) Each board of trustees shall undertake a program to eradicate any discrimination on the basis of gender, race, or physical handicap in the granting of salaries to employees and shall report on or before March 15, 1983, and annually thereafter, the results of its program to the State Community College Coordinating Board of Community Colleges.

Section 58. Section 240.339, Florida Statutes, is amended to read:

240.339 Contracts with administrative and instructional staff.—Each person employed in an administrative or instructional capacity in a community college shall be entitled to a contract as provided by rules of the State Board of Education.

Section 59. Section 240.341, Florida Statutes, is amended to read:

240.341 Teaching faculty; minimum teaching hours per week.—Each full-time member of the teaching faculty at any institution under the supervision of the State Board of Community Colleges of the Department of Education who is paid wholly from funds appropriated from the state community college program fund shall teach a minimum of 15 classroom contact hours per week at such institution. However, the required classroom contact hours per week may be reduced upon approval of the president of the institution in direct proportion to specific duties and responsibilities assigned the faculty member by his departmental chairman or other appropriate college administrator. Such specific duties may include specific research duties, specific duties associated with developing television, video tape, or other specifically assigned innovative teaching techniques or devices, or assigned responsibility for off-campus student internship or work study programs. A classroom contact hour consists of a regularly scheduled classroom activity of not less than 50 minutes in a course of instruction which has been approved by

the board of trustees of the community college. Any full-time faculty member who is paid partly from state community college program funds and partly from other funds or appropriations shall teach a minimum number of classroom contact hours per week in such proportion to 15 classroom contact hours as his salary paid from state community college program funds bears to his total salary.

Section 60. Section 240.343, Florida Statutes, is amended to read:

240.343 Sick leave.—Each community college district board of trustees shall adopt rules whereby any full-time employee who is unable to perform his duties at the college on account of personal sickness, accident disability, or extended personal illness, or because of illness or death of the employee's father, mother, brother, sister, husband, wife, child, or other close relative or member of the employee's own household, and who consequently has to be absent from work shall be granted leave of absence for sickness by the president or by the president's designated representative. The following provisions shall govern sick leave:

(1) EXTENT OF LEAVE WITH COMPENSATION.—

(a) Each full-time employee shall earn 1 day of sick leave with compensation for each calendar month or major fraction of a calendar month of service, not to exceed 12 days for each fiscal year. Such leave shall be taken only when necessary because of sickness as herein prescribed. Such sick leave shall be cumulative from year to year. Accumulated sick leave may be transferred from another Florida community college, the Florida Department of Education, the State University System, or a Florida district school board, or a state agency, provided that at least one-half of the sick leave accumulated at any time must have been established in the college in which such employee is currently employed.

(b) A board of trustees may establish rules and prescribe procedures whereby a full-time employee may, at the beginning date of employment in any year, be credited with 12 days of sick leave with compensation in excess of the number of days the employee has earned. Upon termination of employment, the employee's final compensation shall be adjusted in an amount necessary to ensure that sick leave with compensation shall not exceed the days of earned sick leave as provided herein.

(c) A board of trustees may establish rules and prescribe standards to permit a full-time employee to be absent no more than 2 days for personal reasons and 2 days for emergencies. However, such absences for personal reasons and emergencies shall be charged only to accrued sick leave, and leave for personal reasons and emergencies shall be noncumulative.

(d) A board of trustees may establish rules to provide terminal pay for accumulated sick leave to a full-time employee or to his beneficiary if service is terminated by death. However, such terminal pay shall not exceed an amount determined as follows:

1. During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.
2. During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.
3. During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.
4. During and after the 10th year of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.

If an employee receives terminal pay benefits based on unused sick leave credit, all unused sick leave credit shall become invalid; however, if an employee terminates his employment without receiving terminal pay benefits and is reemployed, his sick leave credit shall be reinstated.

(2) CLAIM MUST BE FILED.—Any full-time employee who finds it necessary to be absent from his duties because of illness as defined in this section shall notify the president or a college official designated by the president, if possible before the opening of college on the day on which the employee must be absent or during the day, except when he is absent for emergency reasons recognized by the board of trustees as valid. Any employee shall, before claiming and receiving compensation for the time absent from his duties while absent because of sick leave as prescribed in this section, make and file a written certificate which shall set forth the day or days absent, that such absence was necessary, and that he is entitled or not entitled to receive pay for such absence in accordance with the provisions of this section. The board of trustees may prescribe rules under which the president may require a certificate of illness from a licensed physician or from the county health officer.

(3) COMPENSATION.—Any full-time employee having unused sick leave credit shall receive full-time compensation for the time justifiably absent on sick leave; no compensation may be allowed beyond that provided in subsection (4).

(4) EXPENDITURE AUTHORIZED.—Community college boards of trustees are authorized to expend public funds for payment to employees on account of sickness. The expending and excluding of such funds shall be in compliance with rules promulgated by the Department of Administration pursuant to chapter 650.

(5) SICK LEAVE POOL.—Notwithstanding any other provision of this section, a board of trustees may, by rule, based upon the maintenance of reliable and accurate records by the community college showing the amount of sick leave which has been accumulated and is unused by employees in accordance with this section, establish a plan allowing participating full-time employees of the community college to pool sick leave accrued and allowing any sick leave thus pooled to be disbursed to any participating employee who is in need of sick leave in excess of that amount he has personally accrued. Such rules shall include, but not be limited to, the following provisions:

(a) Participation in the sick leave pool shall at all times be voluntary on the part of employees.

(b) Any full-time employee shall be eligible for participation in the sick leave pool after 1 year of employment with the community college, provided such employee has accrued a minimum amount of unused sick leave, which minimum shall be established by rule.

(c) Any sick leave pooled pursuant to this section shall be removed from the personally accumulated sick leave balance of the employee donating such leave.

(d) Participating employees shall make equal contributions to the sick leave pool. There shall be established a maximum amount of sick leave which may be contributed to the pool by an employee. After the initial contribution which an employee makes upon electing to participate, no further contributions shall be required except as may be necessary to replenish the pool. Any such further contribution shall be equally required of all employees participating in the pool.

(e) Any sick leave time drawn from the pool by a participating employee must be used for that employee's personal illness, accident, or injury.

(f) A participating employee shall not be eligible to use sick leave from the pool until all of his sick leave has been depleted. There shall be established a maximum number of days for which an employee may draw sick leave from the sick leave pool.

(g) A participating employee who uses sick leave from the pool shall not be required to recontribute such sick leave to the pool, except as otherwise provided herein.

(h) A participating employee who chooses to no longer participate in the sick leave pool shall not be eligible to withdraw any sick leave already contributed to the pool.

(i) Alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as determined by the board to be appropriate. Rules adopted for the administration of this program shall provide for the investigation of the use of sick leave utilized by the participating employee in the sick leave pool.

Section 61. Section 240.345, Florida Statutes, is amended to read:

240.345 Financial support of community colleges.—

(1) STATE SUPPORT OF COMMUNITY COLLEGES.—Each community college which has been approved by the Department of Education and meets the requirements of law and regulations of the State Board of Education shall participate in the state community college program fund.

(2) STUDENT FEES.—

(a) Fees may be charged to students attending a community college only as authorized by, and pursuant to, rules of the State Board of Education and State Board of Community Colleges. The board of trustees may set specific fees when a State Board of Community Colleges rule establishes a range.

(b) The State Board of *Community Colleges* shall adopt rules permitting the deferral of registration and tuition fees for those students receiving financial aid from federal or state assistance programs when such aid is delayed in being transmitted to the student through circumstances beyond the control of the student. Failure to make timely application for such aid shall be insufficient reason to receive such deferral.

1. Veterans and other eligible students receiving benefits under chapter 32, chapter 34, or chapter 35, 38 U.S.C., shall be entitled to one deferment each academic year and an additional deferment each time there is a delay in the receipt of their benefits.

2. In adopting such rules, the State Board of *Community Colleges* is required to enforce the collection of or otherwise settle delinquent accounts.

3. The State Board of *Education* shall require that each institution within the community college system withdraw all requests for course approval from the Veterans Administration for education programs offered in correctional facilities which are provided through state funding at no cost to the inmate.

(c) Any dependent child of a special risk member as defined in s. 121.021(15) shall be entitled to a full waiver of undergraduate fees if the special risk member was killed in the line of duty. This waiver shall apply until the child's 25th birthday. To qualify for this waiver, the child shall be required to meet regular admission requirements.

Section 62. Section 240.347, Florida Statutes, is amended to read:

240.347 State Community College Program Fund.—There is established a State Community College Program Fund. This fund shall comprise all appropriations made by the Legislature for the support of the current operating program and shall be apportioned and distributed to the community college districts of the state on the basis of procedures established by law and regulations of the State Board of *Education*. The annual apportionment for each community college district shall be distributed on a monthly basis in as nearly equal payments as possible.

Section 63. Subsection (1) of section 240.349, Florida Statutes, is amended to read:

240.349 Requirements for participation in Community College Program Fund.—

(1) Each district which participates in the state appropriations for the Community College Program Fund shall provide evidence of its effort to maintain an adequate community college program which shall:

(a) Meet the minimum standards prescribed by the State Board of Education in accordance with s. 240.325.

(b) Effectively fulfill the mission of the community colleges in accordance with s. 240.301.

Section 64. Section 240.351, Florida Statutes, is amended to read:

240.351 Department of Education to determine units for community colleges.—The Department of Education shall determine from reports submitted by presidents of community colleges as prescribed by regulations of the State Board of *Education* the number of full-time equivalent students enrolled in the current year and the number of students transported in the community colleges authorized by law and regulations of the state board. On the basis of said reports, the department shall determine the number of instruction and transportation units in each community college as hereinafter prescribed.

Section 65. Paragraphs (c) and (h) of subsection (3) of section 240.359, Florida Statutes, 1982 Supplement, are amended, paragraph (d) of subsection (1) is redesignated as paragraph (g) and new paragraphs (d), (e), and (f) are added to said subsection, and subsection (5) is added to said section, to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE STATE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(d) Postsecondary academic and postsecondary vocational education programs and, when assigned to community colleges, adult precollege education programs shall have first priority in community college funding.

(e) Community education service programs, which include community instructional services, shall be presented to the Legislature with rationale for state funding. The Legislature may identify priority areas for use of these funds. Program costs shall be partially borne by the students.

(f) Recreation and leisure service program costs shall be fully borne by the students.

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(c) The apportionment to each community college from the community college program fund for current operations shall be based on an assigned full-time equivalent enrollment as determined in paragraphs (a) and (b) and shall consider the cost level of each field of study and such other factors as prescribed by rules of the State Board of Education. However, students in community education service programs shall not be counted for full-time equivalent enrollment.

(h) Colleges shall seek to maintain an unencumbered fund balance of between 4 and 10 percent of the funds available in the current general fund of the operating budget. If the 10-percent upper level is exceeded for 2 consecutive years, the appropriation to the college in a succeeding fiscal year shall be reduced by the average of the excess of the fund balance over the 10 percent for the 2 years. In exceptional cases, when fund balances greater than 10 percent are necessary for a college, prior approval shall be obtained from the State Board director of the Division of Community Colleges.

(5) REPORT OF REMEDIAL EDUCATION.—Each community college shall report the volume and cost of remedial education activities as a separate item in its annual cost accounting system.

Section 66. Section 240.361, Florida Statutes, is amended to read:

240.361 Budgets for community colleges.—The president of each community college shall recommend to the board of trustees a budget of income and expenditures at such time and in such form as the state board may prescribe. Upon approval of a budget by the board of trustees, such budget shall be transmitted to the State Board of Community Colleges and the Department of Education for review and approval. Rules and regulations of the State Board of Education shall prescribe procedures for effecting budget amendments subsequent to the final approval of a budget for a given year.

Section 67. Section 240.363, Florida Statutes, is amended to read:

240.363 Financial accounting and expenditures.—All funds accruing to the benefit of a community college shall be received, accounted for, and expended in accordance with rules and regulations of the State Board of Education.

Section 68. Section 240.377, Florida Statutes, is amended to read:

240.377 Promotion and public relations, funding.—Each community college is authorized to budget and use a portion of funds accruing from auxiliary enterprises and undesignated gifts for promotion and public relations as prescribed by regulations of the State Board of Education. Such funds may be used to provide expenditures for hospitality of business guests at the college or elsewhere. However, such hospitality expenses shall not exceed the amount authorized for such contingency fund as prescribed by rules of the State Board of Education.

**Amendment 2**—On page 1, strike all of title and insert: A bill to be entitled An act relating to postsecondary education; adding subsection (11) to s. 228.071, Florida Statutes; authorizing joint applications for community education grants; creating s. 229.52, Florida Statutes; requiring the State Board of Education to provide certain assistance in the economic development of the state; adding s. 229.551(3)(g), Florida Statutes, 1982 Supplement; requiring the Department of Education to evaluate vocational education programs; amending s. 230.23(4)(l), Florida Statutes, 1982 Supplement; requiring district school boards to provide certain exchange programs for staff of technical and vocational programs; amending s. 240.115(1), Florida Statutes, and adding a new subsection (3) to said section; increasing the types of articulation included in the

department's articulation agreement; requiring certain cooperation between universities and community colleges and secondary schools; creating s. 240.122, Florida Statutes, relating to postsecondary education funding; amending s. 240.125, Florida Statutes; authorizing the Commissioner of Education to establish a Trust Fund for Postsecondary Cooperation; amending s. 240.147, Florida Statutes; expanding the duties of the Postsecondary Education Planning Commission in the review of postsecondary programs and the state master plan; creating s. 240.2091, Florida Statutes, providing for certain considerations in recommending tuition fees for universities; requiring certain review of programs at state universities; creating s. 240.2095, Florida Statutes; providing criteria for the approval of new programs at state universities; restricting the approval of new programs; amending s. 240.243, Florida Statutes; amending the definition of classroom contact hour; providing for teaching hours by university faculty; repealing s. 240.271(5)-(7), Florida Statutes, relating to biennial funding for the State University System, funds for reduced enrollment, and biennial quality improvement funding; creating s. 240.312, Florida Statutes; requiring program reviews at community colleges; adding s. 240.319(3)(v), (w), Florida Statutes, 1982 Supplement; providing for community college personnel; creating s. 240.320, Florida Statutes; providing a state policy for the approval of new programs at community colleges; amending s. 240.321, Florida Statutes; correcting a cross reference; amending s. 240.325(5), Florida Statutes; providing for considerations in determining community college tuition fees; amending s. 240.353(1), Florida Statutes; providing for legislative definition of community college full-time equivalent students; amending s. 240.359(1), (3)(c), Florida Statutes, 1982 Supplement, relating to determinations of state financial support for community colleges; repealing s. 240.359(3)(d), Florida Statutes, 1982 Supplement, relating to community college funding for reduced enrollment; creating s. 240.381, Florida Statutes; creating the Florida Academic Improvement Trust Fund for Community Colleges and providing a procedure for the granting of matching funds therefrom; authorizing community colleges and district school boards to use certain funds for certain purposes; repealing s. 240.351, Florida Statutes, relating to determinations of instruction and transportation units for community colleges by the Department of Education; providing an effective date.

WHEREAS, the master plan for postsecondary education has been adopted by the Postsecondary Education Planning Commission, as required by s. 240.147, Florida Statutes, and submitted to the State Board of Education, and

WHEREAS, the State Board of Education has accepted this plan, and

WHEREAS, the Legislature hereby accepts and endorses the master plan for postsecondary education, NOW, THEREFORE,

**Amendment 3**—On page 3, in the title, line 16 after the semicolon (;), insert: amending s. 20.15(3), (4)(c), (5), and (6), Florida Statutes, relating to the Department of Education, specifying that the State Board of Community Colleges shall be the director of the Division of Community Colleges; replacing the State Community College Coordinating Board with the State Board of Community Colleges; amending s. 228.041(1)(b) and (21), Florida Statutes, 1982 Supplement, clarifying language; adding paragraph (p) to s. 229.053(2), Florida Statutes, 1982 Supplement, providing that the State Board of Education shall recommend the establishment of community college branch campuses; amending s. 229.512(1), Florida Statutes, and adding a new subsection (2) thereto, providing that the Commissioner of Education has the power to suspend a community college president; amending s. 235.05(2), Florida Statutes, correcting a cross reference; amending s. 235.435(5)(a), Florida Statutes, 1982 Supplement, providing that the State Board of Community Colleges, rather than the division, shall submit a priority list for capital outlay; amending s. 240.301, Florida Statutes, providing the mission of the Community College System; amending ss. 240.305, 240.307(1) and (4), and 240.309(1), Florida Statutes, establishing the State Board of Community Colleges to replace the State Community College Coordinating Board and providing for appointment of members and organization; amending s. 240.311, Florida Statutes, 1982 Supplement, providing powers and duties of the board, which shall include establishing ranges for student fees; providing for the appointment of an executive director of the Community College System and providing duties; amending ss. 240.313(3) and (6) and 240.317, Florida Statutes, revising provisions relating to appointment of members of community college district boards of trustees; providing for rules; amending s. 240.319, Florida Statutes, 1982 Supplement, revising powers and duties of district boards of trustees; amending s. 240.321, Florida Statutes, relating to communication and computation skills necessary for admission to degree programs; creating s. 240.3215, Florida Statutes, pro-

viding for performance standards for degrees; amending ss. 240.327(1), 240.339, 240.341, and 240.343, Florida Statutes, and s. 240.335, Florida Statutes, 1982 Supplement, clarifying and conforming language; amending ss. 240.345, 240.347, 240.349(1), and 240.351, Florida Statutes, relating to student fees and the State Community College Program Fund; amending s. 240.359(3)(c) and (h), Florida Statutes, 1982 Supplement, and adding new paragraphs (d), (e), and (f) to subsection (1) and adding subsection (5) thereto, providing for program priority for funding, financing of program costs, and reporting of remedial education; amending ss. 240.361, 240.363, and 240.377, Florida Statutes, clarifying and conforming language;

On motions by Senator Maxwell, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 1267 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committees on Appropriations and Regulatory Reform—

**CS for HB 1267**—A bill to be entitled An act relating to the care of dependent children; reenacting s. 409.145, Florida Statutes, relating to the care of children; amending s. 409.165, Florida Statutes, expanding the types of facilities which may provide for the care of dependent children; saving ss. 409.145, 409.165, and 409.175, Florida Statutes, from scheduled sunset repeal on October 1, 1983, and providing for future repeal and review of said sections; providing an effective date.

—was read the first time by title. On motion by Senator D. Childers, the rules were waived and the bill was placed on the calendar.

On motions by Senator D. Childers, by unanimous consent, CS for HB 1267 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Gersten	Johnston	Neal
Carlucci	Girardeau	Kirkpatrick	Plummer
Castor	Gordon	Malchon	Rehm
Childers, D.	Grant	Mann	Scott
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	

Nays—1

Langley

*The Honorable Curtis Peterson, President*

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

**CS for SB 610**—A bill to be entitled An act relating to unemployment compensation; adding s. 443.111(6), Florida Statutes, 1982 Supplement; providing for a short-time compensation program; providing definitions; providing requirements for approval by the Division of Employment Security of the Department of Labor and Employment Security of an employers' short-time compensation plan; providing conditions under which benefits are payable; providing for computation of the amount of benefit; amending s. 443.131(3)(a), (e), (4)(d), (5)(a), Florida Statutes; providing for computation of employer contribution rates; providing for expiration of such program and revival of prior law; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 5, lines 18-22, strike all of said lines and insert: 3. No otherwise eligible individual shall be disqualified from benefits for leaving employment instead of accepting a reduction in hours pursuant to the implementation of an approved plan.

**Amendment 2**—On page 12, line 9, strike *5.5 percent* and insert after “be”: *1 percent above the current maximum contribution rate.*

**Amendment 3**—On page 1, lines 21-23, strike all of said lines and insert:

Section 1. Subsection (2) of section 443.111, Florida Statutes, 1982 Supplement, is amended and subsection (6) is added to said section to read:

443.111 Payment of benefits.—

(2) WEEKLY BENEFIT AMOUNT.—

(a) An individual’s “weekly benefit amount” shall be an amount equal to one-half of his average weekly wage, but not less than \$10 or more than \$150. Such weekly benefit amount, if not a multiple of \$1, shall be rounded off to the next higher multiple of \$1. The provisions of this subsection apply only to benefit years beginning on and after October 1, 1983. However, no individual currently eligible for benefits shall be determined ineligible pursuant to this section.

(b) The average weekly wages of such individual shall be computed by dividing his total base period wages by the number of weeks in such base period in which he was paid wages for insured work. However, any individual shall be deemed to have been paid wages in the total number of weeks in his base period indicated in the reports submitted to the division by his base period employers but not more than 13 weeks in any calendar quarter.

**Amendment 4**—On page 1, lines 3-4, strike: adding s. 443.111(6), Florida Statutes, 1982 Supplement and insert: amending s. 443.111(2), Florida Statutes, 1982 Supplement, and adding a subsection (6);

On motions by Senator Scott, the Senate concurred in the House amendments.

CS for SB 610 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Carlucci	Gordon	Malchon	Stuart
Castor	Grant	Mann	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Meek	
Fox	Jenne	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**SB 233**—A bill to be entitled An act relating to death benefits for law enforcement officers and firefighters; creating the “Florida Law Enforcement Officers and Firefighters Death Benefit Act”; providing definitions; providing for payment by the state of death benefits to the beneficiary, family, or estate of law enforcement officers or firefighters who are unlawfully and intentionally killed while in the actual performance of their duties; providing for the payment by the state of certain educational costs for the children of such officers or firefighters; authorizing the procurement of insurance to secure the payment of such benefits; providing certain conditions relating to the acceptance of such death benefits; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 2**—On page 5, line 29, strike all of said line and insert:

Section 5. Subsections (4) and (5) of section 633.382, Florida Statutes, as created by chapter 81-287, Laws of Florida, and as amended by chapter 82-189, Laws of Florida, are hereby repealed, subsection (6) is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

633.382 Firefighters; supplemental compensation from state.—

(4) FUNDING.—

(a) *The employing agency shall be responsible for the correct payment of firefighters pursuant to the provisions of this section. The division may review, in a postaudit capacity, any action taken by an agency in administering the educational incentive program. The employing agency shall take appropriate action when a postaudit shows that the action taken by the employing agency was in error.*

(b) *Each agency employing firefighters who are eligible for this compensation shall submit reports to the division on March 31, June 30, September 30, and December 31 of each year, containing information relative to compensation paid as a result of this section.*

(c) *There is hereby appropriated from the Insurance Commissioner’s Regulatory Trust Fund to the applicable fund of the Revenue Sharing Act of 1972 all moneys which have not been distributed to municipalities in accordance with s. 175.121 as a result of the limitation of the disbursement of chapter 175 revenues created by s. 175.122 or as a result of any municipality not having qualified in any given year, or portion thereof, for participation in the distribution of the chapter 175 revenues. The proration of the appropriation between the Revenue Sharing Trust Fund for counties and the Revenue Sharing Trust Fund for municipalities shall be equal to the ratio of compensation paid in the prior year to county and municipality firefighters pursuant to this section. This ratio shall be provided annually to the Department of Revenue by the Division of State Fire Marshal.*

(d) *For the 1982-1983 fiscal year, each firefighter participating in the firefighters’ supplemental compensation program shall be entitled to receive funds from undisbursed moneys of the Firefighters’ Supplemental Compensation Trust Fund for the 1981-1982 fiscal year.*

(e) *Effective July 1, 1983, salary incentive payments to firefighters shall commence in the first full calendar month following the initial date of certification of eligibility by the Division of State Fire Marshal.*

Section 6. Paragraph (e) is added to subsection (1) of section 218.23, Florida Statutes, 1982 Supplement, to read:

218.23 Revenue sharing with units of local government.—

(1) To be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, a unit of local government is required to have:

(e) *Certified that persons in its employ as firefighters, as defined in s. 633.30(1), meet the qualification for employment as established by the Division of State Fire Marshal pursuant to the provisions of ss. 633.34 and 633.35 and that the provisions of s. 633.382 are met.*

Additionally, to receive its share of revenue-sharing funds, a unit of local government shall certify to the Department of Revenue that the requirements of s. 200.065 and s. 200.085, if applicable, were met. The certification shall be made annually within 30 days of adoption of an ordinance or resolution establishing a final property tax levy or, if no property tax is levied, not later than November 1. The portion of revenue-sharing funds which, pursuant to this part, would otherwise be distributed to a unit of local government which has not certified compliance or has otherwise failed to meet the requirements of ss. 200.065 and 200.085 shall be deposited in the General Revenue Fund for the 12 months following a determination of noncompliance by the department.

Section 7. This act shall take effect October 1, 1983, except that sections 5 and 6 shall take effect upon becoming a law.

**Amendment 3**—On page 1 in the title, line 18, strike all of said line and insert: repealing subsections (4) and (5) of section 633.382, Florida Statutes, 1982 Supplement, and adding a new subsection (4) thereto; deleting provisions relating to a special fund and warrants for payment of supplemental compensation to firefighters; providing that employing agencies shall be responsible for payment of firefighters; requiring reports; providing for the appropriation of moneys to the applicable fund of the Revenue Sharing Act of 1972; providing for the receipt of funds from certain undisbursed moneys; providing for the commencement of payments; providing effective dates.

**Amendment 4**—On page 1, line 22, strike “This act” and insert: Sections 1 through 4 of this act

**Amendment 5**—On page 1 in the title, line 2, strike “death benefits for”

On motions by Senator Dunn, the Senate concurred in the House amendments.

SB 233 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Jennings	Neal
Barron	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Stuart
Carlucci	Gordon	Langley	Thomas
Castor	Grant	Malchon	Thurman
Childers, D.	Grizzle	Mann	Vogt
Childers, W. D.	Hair	Margolis	Weinstein
Crawford	Henderson	McPherson	
Dunn	Hill	Meek	
Fox	Jenne	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

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

**CS for SB 968**—A bill to be entitled An act relating to motor vehicles; adding s. 316.003(70)-(74), Florida Statutes, 1982 Supplement; providing definitions; amending s. 316.069, Florida Statutes; requiring that certain accident statistics be maintained; amending s. 316.515, Florida Statutes; providing maximum width, height, and length requirements for vehicles; providing exceptions; creating s. 316.516, Florida Statutes; providing for enforcement; creating s. 316.611, Florida Statutes; providing for rules regulating tandem trailer equipment; providing for issuance of tandem trailer operator's certificate; adding s. 320.02(7), Florida Statutes; requiring proof of payment of specified federal taxes; providing a rule of construction; adding s. 316.610(4), Florida Statutes; providing for the safety inspection of certain commercial motor vehicles; repealing s. 316.535(8), Florida Statutes, relating to length of combinations of vehicles; providing intent; providing for a study; providing for state membership in the International Registration Plan; providing for legislative review; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 17, line 19, after the period “.” insert:

Section 14. Liability insurance required; amount governed by federal regulations.—Every truck-tractor having a gross weight of 44,000 pounds or more operated upon the roads or highways of this state shall be insured with liability insurance, as defined in s. 624.605, Florida Statutes, in an amount in compliance with minimum levels of financial responsibility as set forth in regulations of the United States Department of Transportation, 49 C.F.R. part 387.

Renumber the subsequent section.

**Amendment 2**—In title on page 1, lines 14 and 15, strike “providing for issuance of tandem trailer operator's certificate;”

**Amendment 3**—On page 1, in the title, line 26, after the semi-colon “;” insert: requiring certain truck-tractors to be insured with liability insurance in conformance with certain regulations of the U. S. Department of Transportation;

On motions by Senator Beard, the Senate concurred in the House amendments.

CS for SB 968 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Castor	Crawford	Frank
Beard	Childers, D.	Dunn	Gersten
Carlucci	Childers, W. D.	Fox	Girardeau

Gordon	Jenne	Margolis	Rehm
Grant	Jennings	McPherson	Stuart
Grizzle	Johnston	Meek	Thomas
Hair	Kirkpatrick	Myers	Thurman
Henderson	Langley	Neal	Vogt
Hill	Mann	Plummer	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 534 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Finance & Taxation and Representative Crady—

**CS for HB 534**—A bill to be entitled An act relating to the local government half-cent sales tax; adding subsection (6) to s. 218.65, Florida Statutes, 1982 Supplement; providing that certain counties which participate in said tax and which are eligible for an emergency distribution under part VI of chapter 218, Florida Statutes, shall be eligible for a supplemental distribution; providing a limitation; amending s. 23.019(2)(b), Florida Statutes, 1982 Supplement; providing for a separate statement of inmate and patient population in certain annual population reports; providing an appropriation; providing an effective date.

—was read the first time by title. On motion by Senator Grant, the rules were waived and the bill was placed on the calendar.

On motions by Senator Grant, by unanimous consent, CS for HB 534 was taken up out of order and by two-thirds vote read the second time by title.

Senator Grant moved the following amendments which were adopted:

**Amendment 1**—On page 1, strike everything after the enacting clause and insert:

Section 1. Subsection (6) is added to section 218.65, Florida Statutes, 1982 Supplement, to read:

218.65 Emergency distribution.—

(6)(a) Any county eligible for an emergency distribution pursuant to this section whose inmate population in any year is greater than 7 percent of its total population shall be eligible for a supplemental distribution for that year from funds expressly appropriated therefor. The sum of said supplemental distribution plus all other moneys distributed pursuant to this part shall not exceed \$20 per capita, based on the total population of the county. Any balance of moneys appropriated for such purposes remaining at the end of the local government fiscal year shall revert to the state General Revenue Fund. If moneys appropriated for such purposes are insufficient to meet the \$20 per capita total population limit, they shall be prorated among eligible counties. Distributions authorized pursuant to this subsection shall be made monthly during the local government fiscal year in combination with other moneys distributed pursuant to this part.

(b) For the purposes of this subsection:

1. “Inmate population” means inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, or the Department of Health and Rehabilitative Services.

2. “Total population” includes inmate and noninmate population.

Section 2. Paragraph (b) of subsection (2) of section 23.019, Florida Statutes, 1982 Supplement, is amended to read:

23.019 Population census determination.—

(2)

(b) For the purpose of revenue-sharing distribution formulas and distribution proportions for the local government half-cent sales tax, inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, or the Department of Health and Rehabilitative Services shall not be considered to be residents of the governmental unit in which the institutions are located. *Estimates of inmates and patients pursuant to this paragraph shall be separately stated in population reports issued pursuant to this section.*

Section 3. There is hereby appropriated \$321,816 from the General Revenue Fund to the Local Government Half-cent Sales Tax Clearing Trust Fund for supplemental distributions to be made during county fiscal year 1983-1984 pursuant to this act.

Section 4. This act shall take effect July 1, 1983.

**Amendment 2**—In title, on page 1, lines 10 and 11, strike “providing for an annual appropriation;” and insert: amending s. 23.019(2)(b), Florida Statutes, 1982 Supplement; providing for a separate statement of inmate and patient population in certain annual population reports; providing an appropriation; providing an effective date.

On motion by Senator Grant, by two-thirds vote CS for HB 534 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Girardeau	Kirkpatrick	Neal
Carlucci	Grant	Langley	Plummer
Castor	Grizzle	Malchon	Scott
Childers, W. D.	Hair	Mann	Stuart
Crawford	Henderson	Margolis	Thomas
Dunn	Hill	McPherson	Thurman
Fox	Jenne	Meek	Vogt
Gersten	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Mr. President

On motion by Senator Grant, the Senate reconsidered the vote by which CS for HB 534 passed. On motion by Senator Grant, the Senate reconsidered the vote by which CS for HB 534 was read the third time.

On motions by Senator Grant, the Senate reconsidered the vote by which Amendments 1 and 2 were adopted. Amendments 1 and 2 were withdrawn.

On motion by Senator Grant, by two-thirds vote CS for HB 534 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Johnston	Plummer
Barron	Girardeau	Kirkpatrick	Rehm
Beard	Gordon	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	Meek	Vogt
Crawford	Hill	Myers	Weinstein
Dunn	Jennings	Neal	

Nays—None

On motion by Senator Thomas, by two-thirds vote—

**CS for SB 87**—A bill to be entitled An act relating to legal expense insurance; amending ss. 642.015-642.023, 642.025(2), 642.029-642.045, Florida Statutes; providing technical revisions and clarifying language; providing for additional deposit of securities under certain circumstances; requiring life or casualty insurers to file certain information with the department; increasing certain fees; providing additional grounds for refusal, suspension, or revocation of certain registrations; creating s. 642.0331, Florida Statutes; providing grounds for revoking or suspending certain certificates; creating s. 642.0332, Florida Statutes; requiring suspension or revocation of certain certificates to be by order of the department; providing for notice of suspension or revocation; creating s. 642.0333, Florida Statutes; providing for duration of suspensions and reinstatement of a certificate; creating s. 642.0334, Florida Statutes; providing for administrative fines in lieu of suspension or revocation; providing for the revival and reoption of chapter 642, Florida Statutes, as amended; providing for future review and repeal of chapter 642, Florida Statutes, pursuant to the Regulatory Sunset Act; providing an effective date.

—was removed from the table and read the second time by title.

Senator Scott moved the following amendments which were adopted:

**Amendment 1**—On page 7, line 6, strike “\$50,000” and insert: “\$30,000 \$50,000”

**Amendment 2**—On page 20, between lines 21 and 22, insert:

Section 19. Section 642.0475, Florida Statutes, is created to read:

642.0475 Civil remedy.—

(1) Any person damaged by a violation of the provisions of this chapter may bring a civil action against a person violating such provisions in the circuit court of the county in which the alleged violator resides, or has his principal place of business, or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or \$500, whichever is greater, together with court costs and reasonable attorney’s fees incurred by the plaintiff.

(2) No punitive damages shall be awarded under this section unless the acts giving rise to the violation occur with such frequency as to indicate a general business practice and these acts are:

(a) Willful, wanton, and malicious.

(b) In reckless disregard for the rights of any insured.

Any person who pursues a claim under this subsection shall post in advance the costs of discovery. Such costs shall be awarded to the insurer if no punitive damages are awarded to the plaintiff.

(3) As a condition precedent to bringing an action under this section, the department and the person against whom the action is to be brought shall be given notice of the violation. The notice shall state with specificity the facts which allegedly constitute the violation and the law which the plaintiff is relying upon. No action shall lie if, within 30 days thereafter, the damages are paid or the circumstances giving rise to the violation are corrected.

(4) This section shall not be construed to authorize a class action suit against a legal expense insurance corporation or a civil action against the department, its employees, or the Insurance Commissioner.

(Renumber subsequent sections.)

**Amendment 3**—In title, on page 1, line 24, after the semicolon (;) insert: creating s. 642.0475, Florida Statutes; providing a civil remedy;

On motion by Senator Thomas, by two-thirds vote CS for SB 87 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Johnston	Rehm
Beard	Girardeau	Kirkpatrick	Scott
Carlucci	Gordon	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Myers	
Fox	Jenne	Neal	
Frank	Jennings	Plummer	

Nays—None

On motion by Senator Thurman, the Senate reconsidered the vote by which—

**SB 951**—A bill to be entitled An act relating to drainage and water control; amending s. 298.14, Florida Statutes; increasing the maximum compensation allowable to a member of the water control district board of supervisors; providing an effective date.

—as amended passed this day.

On motion by Senator Thurman, the Senate reconsidered the vote by which SB 951 was read the third time.

On motion by Senator Thurman, the Senate reconsidered the vote by which Amendment 1 was adopted. Amendment 1 was withdrawn.

On motion by Senator Thurman, by two-thirds vote SB 951 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	

Nays—None

The President declared the Senate in informal recess at 1:18 p.m.

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

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1295 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Regulatory Reform—

**HB 1295**—A bill to be entitled An act relating to clinical laboratories; amending s. 483.011, Florida Statutes, modifying terms; amending s. 483.021, Florida Statutes, relating to policy and purpose; amending s. 483.031, Florida Statutes, modifying exemptions; amending s. 483.041, Florida Statutes, modifying and adding certain definitions and deleting definitions relevant to regulation of personnel; amending s. 483.051, Florida Statutes; deleting provisions relating to regulation of personnel and modifying fee provisions; modifying registration provisions and expanding duties of the Department of Health and Rehabilitative Services with respect to clinical laboratories; amending s. 483.061, Florida Statutes, providing for annual inspection of facilities and authorizing the department to enter into certain contractual arrangements for inspection; amending s. 483.091, Florida Statutes, relating to clinical laboratory registration; amending s. 483.101, Florida Statutes, modifying requirements relating to application for laboratory registration; amending s. 483.111, Florida Statutes, relating to limitations on registration; creating s. 483.125, Florida Statutes, providing requirements for practitioner's office clinical laboratories and providing penalties with respect to violation thereof; amending s. 483.131, Florida Statutes, modifying provisions relating to display of registration to include similar requirements relative to multiphasic health testing centers; adding subsections (4) and (5) to s. 483.181, Florida Statutes, expanding provisions relating to examination of specimens; amending s. 483.191, Florida Statutes, relating to branch offices and collection stations; creating s. 483.195, Florida Statutes, restricting purveyors of clinical laboratory services from billing or receiving payment from certain parties, providing exceptions, and providing a penalty for violation; amending s. 483.201(1), Florida Statutes, and adding subsections thereto, providing additional grounds for revocation or suspension of registration; amending s. 483.23, Florida Statutes, relating to unlawful offenses; creating s. 483.231, Florida Statutes, authorizing imposition of administrative penalties and fines; amending s. 483.24, Florida Statutes, increasing criminal penalties; amending s. 483.25, Florida Statutes, relating to injunction; providing for transfer of clinical laboratory personnel functions from the Department of Health and Rehabilitative Services to the Department of Professional Regulation; providing intent; creating a new part II of chapter 483, Florida Statutes, relating to regulation of clinical laboratory personnel; creating s. 483.50, Florida Statutes, providing definitions; creating s. 483.51, Florida Statutes, establishing an advisory council to assist in regulation of personnel; creating s. 483.52, Florida Statutes; providing for licensure; providing qualifications; providing for examinations; providing for fees and for disposition thereof; providing for license renewal; providing for approval of curriculum; providing continuing education requirements; creating s. 483.53, Florida Statutes; providing for approval of training programs; providing criteria; creating s. 483.55, Florida Statutes, relating to personnel license; creating s. 483.56, Florida Statutes, relating to application for license; creating s. 483.57, Florida Statutes; providing minimum qualifications for laboratory personnel; requiring a medical director for each multiphasic health testing center and providing his responsibilities; creating s. 483.58, Florida Statutes, providing grounds for disciplinary action and penalties with

respect to laboratory personnel; creating s. 483.59, Florida Statutes, providing penalties; creating s. 483.60, Florida Statutes, prohibiting kickbacks and rebates and providing administrative penalties therefor; creating a new subsection (2) and renumbering existing subsection (2), Section 381.321, Florida Statutes, authorizing the department to establish a fee schedule for laboratory services; amending Section 383.12, Florida Statutes, specifying laboratory services to be provided with no charge; repealing Section 741.056, Florida Statutes; repealing ss. 483.071, 483.141, 483.151, 483.161, 483.21, and 483.245, Florida Statutes, relating to regulation of clinical laboratory personnel; repealing part II of chapter 483, Florida Statutes, relating to multiphasic health testing centers; providing for future review and repeal of s. 483.51, Florida Statutes, under the Sunset Act; saving part I of chapter 483, Florida Statutes, from sunset repeal scheduled October 1, 1983; providing for review and repeal of said part and the new part II of chapter 483, Florida Statutes, on October 1, 1993; providing an effective date.

—was read the first time by title. On motion by Senator D. Childers, the rules were waived and the bill was placed on the calendar.

On motions by Senator D. Childers, by unanimous consent, HB 1295 was taken up out of order and by two-thirds vote read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

**Amendment 1**—On page 4, strike everything after the enacting clause and insert:

Section 1. Section 483.031, Florida Statutes, is amended to read:

483.031 Application of chapter; exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(1) Clinical laboratories operated by the United States Government.

(2) A clinical laboratory operated by five or less duly licensed practitioners of the healing arts exclusively in connection with the diagnosis and treatment of their own patients. However, if any referred work is received in the clinical laboratory or if any clinical laboratory work is done for patients referred by another practitioner, all provisions of this part shall apply. This exemption does not apply to a clinical laboratory operated by a practitioner of the healing arts who holds himself and the facilities of his laboratory out as available for the performance of diagnostic tests for other practitioners or their patients.

(3) Laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health service whatsoever.

Section 2. Section 483.041, Florida Statutes, is amended to read:

483.041 Definitions.—

(1) "Person" means any individual, firm, partnership, association, corporation, the State of Florida, any county, municipality, political subdivision or any other entity whether organized for profit or not.

(2) "Department" means the Department of Health and Rehabilitative Services.

(3) "Clinical laboratory" means a laboratory where ~~microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological or histopathological~~ examinations are performed on materials or specimens taken from the human body to provide information or materials for use in the diagnosis, prevention or treatment of a disease or assessment of a medical condition.

(4) "Clinical laboratory trainee" means any person having qualifying education who is ~~enrolled~~ employed in a clinical laboratory ~~approved for training program approved pursuant to s. 483.071~~ and is seeking experience required to meet minimum qualifications for licensing in the state. Trainees may perform procedures under direct and responsible supervision of duly licensed clinical laboratory personnel, *but may not report test results.*

(5) "Clinical laboratory personnel" includes the clinical laboratory director, supervisor, technologist, *blood gas analyst*, or technician, *who performs or is responsible for laboratory test procedures*, but does not include trainees, *screening by blood banks or plasmapheresis centers,*

phlebotomists or persons employed by a clinical laboratory to perform clerical or manual pretesting duties, or clerical, personnel or other administrative responsibilities.

(6) "Clinical laboratory proficiency testing evaluation program" means a program approved by the department for evaluating the performance proficiency of clinical laboratories by the department.

(7) "Collection station or branch office" means a facility operated by a clinical laboratory where materials or specimens are withdrawn or collected from patients or assembled after being withdrawn or collected from patients elsewhere, for subsequent delivery to another location for examination.

(8) "Hospital laboratory" means a laboratory, located in a hospital licensed pursuant to chapter 395, that provides services solely to that hospital and that is owned by the hospital and governed by the hospital medical staff or management.

(9) "Licensed practitioner of the healing arts" means a physician licensed pursuant to chapters 458, 459, or 460, a dentist licensed pursuant to chapter 466, or a person licensed pursuant to chapter 461 or 462.

Section 3. Section 483.051, Florida Statutes, is amended to read:

483.051 Powers and duties rules of the department of Health and Rehabilitative Services.—The department of Health and Rehabilitative Services shall adopt rules, to implement effectuate the purposes and provisions of this part, which shall include, but not be limited to, the following subject matters:

(1) REGISTRATION AND LICENSING; QUALIFICATIONS.—

(a) The department shall provide for annual licensure of register all clinical laboratories and biennial licensure of license all clinical laboratory personnel meeting the requirements of this part, and shall prescribe the qualifications necessary for such licensure. The license of any person or clinical laboratory which fails to pay a required fee or otherwise fails to qualify within 60 days of the date of expiration of its license shall be automatically canceled without notice or further proceedings unless the individual has made application for inactive status pursuant to s. 483.153 clinical laboratories to be registered and for clinical laboratory personnel to be licensed.

(b) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but, provided that practitioners of the healing arts licensed to practice in this state shall not be required to obtain any licenses under this part or to pay any fees hereunder except the fee required for clinical laboratory licensure registration.

(2) EXAMINATIONS.—The department shall conduct examinations required by its rules to determine in part the qualification of clinical laboratory personnel for licensure.

(3) FEES.—The department shall establish a schedule of annual fees, which shall be reasonable in amount, for registration of clinical laboratories, for licensing of clinical laboratory personnel, for applicants required to take an examination, and for registration of clinical laboratory trainees who are subject to this part. No registration fee shall be required for a clinical laboratory operated by any agency of the state, by any county or municipality, or by any hospital licensed under the laws of the state. No licensee shall be required to pay more than one fee. Fees collected shall be deposited into an appropriate trust fund. All fees collected from the inception of the authority to collect fees for the Florida Clinical Laboratory Law shall be used toward the administration of the Florida Clinical Laboratory Law.

(4) ANNUAL REGISTRATION AND LICENSING.—The department shall provide for annual registration of clinical laboratories and licensing of clinical laboratory personnel as of July 1 each year. Those who have failed to pay the proper fee or have otherwise failed to qualify by the following September 1 shall be delinquent and their registration or license subject to cancellation. The registration or license of anyone delinquent on the following December 31 shall be canceled by the department without notice or further proceedings. Upon cancellation under this section the former holder may be reinstated only upon application and qualification as provided for initial applicants and payment of all delinquent fees.

(3)(5) REGISTRATION OF TRAINEES.—The department shall provide for annual the registration of clinical laboratory trainees who are employed by laboratories approved registered pursuant to s. 483.071 483.091, which registration shall not be renewed valid for a period in excess of 2 years except upon special authorization of the department.

(4)(6) STANDARDS OF PERFORMANCE IN THE EXAMINATION OF SPECIMENS.—The department shall operate a clinical laboratory proficiency testing evaluation program and shall prescribe standards of performance in the examination of specimens. As part of the clinical laboratory proficiency testing evaluation program, it may require clinical laboratory personnel may be required to analyze test samples submitted by it and report on the results of such analysis. The department may accept proficiency testing reports of agencies and organizations approved by the department and shall accept such reports for proficiency testing of blood banks if the department determines that the standards of such agencies and organizations are equal to or exceed those of the department.

(5)(7) SHIPMENT OF SPECIMENS;—OUT-OF-STATE LABORATORIES.—The department may determine which tests may be performed on specimens shipped through the mail and may prescribe requirements for collection, transportation, handling, and storage of specimens shipped by common carrier from clinical laboratories or collection stations. Specimens shall be sent to a laboratory for analysis as rapidly as possible, but no later than 12 hours after collection except that the 12-hour requirement shall not apply to blood banks or to plasmapheresis centers in shipping samples and preservation of such specimens. Specimens may be sent to any clinical laboratory outside the state for examination, when the state in which the laboratory is licensed conducts physical inspection of the premises of the laboratory, which in the judgment of the department is equivalent to that conducted by the department or when it is otherwise determined by the department that if such out-of-state laboratory would meet the requirements of this part, as determined by the department. When the specimen has been referred for examination to another an out-of-state laboratory, the report shall bear or be accompanied by a clear statement that such findings were obtained in such other laboratory and shall specify its name and location.

(6)(8) CONSTRUCTION OF CLINICAL LABORATORIES.—The department may establish standards for construction, renovation, maintenance, and repair of new or modification of existing clinical laboratories including plumbing, heating, lighting, ventilation, electrical services, and similar conditions which shall insure the conduct and operation of the laboratory in a manner which will protect the public health.

(7)(9) SAFETY AND SANITARY CONDITIONS WITHIN THE CLINICAL LABORATORY AND ITS SURROUNDINGS.—The department shall establish standards relating to safety and sanitary conditions within the clinical laboratory and its surroundings, including water supply, sewage, the handling of specimens, disposal of needles, syringes and laboratory wastes, storage of chemicals, workspace, fire safety, and general measures hygiene, which shall insure the protection of the public health.

(8)(10) EQUIPMENT.—The department shall establish minimum standards for clinical laboratory equipment essential to its proper conduct and operation, calibration, and adequacy for testing procedures.

(9)(11) APPROVAL OF CURRICULUM IN SCHOOLS AND COLLEGES.—The department may approve the curriculum in schools and colleges offering education and training leading toward qualification for licensure under this part.

Section 4. Section 483.052, Florida Statutes, is created to read:

483.052 Licensure fees.—The department shall collect fees for all licenses issued under this part. The fee schedule for fiscal year 1983-1984 shall be the minimum fees provided herein and such remain in effect until the effective date of a fee schedule adopted by rule by the department pursuant to this part. The fee schedule for clinical laboratory licensure shall be increased annually in substantially equal increments to produce, by fiscal year 1985-1986 an overall fee schedule in which fees from clinical laboratory licensure are sufficient to carry out the responsibilities of the department for regulation of clinical laboratories and fees from clinical laboratory personnel are sufficient to carry out the responsibilities of the department for regulation of clinical laboratory personnel. Such fees shall be due at the time of application and shall be payable to the department to be deposited in a trust fund administered by the department and shall be used for the sole purposes of this chapter. The fee schedule shall be as follows:

(1) For licensure as a clinical laboratory director, an application fee of not less than \$35 nor more than \$60. For each category of specialty an examination fee of not less than \$20 nor more than \$80. For biennial renewal of a license, a fee of not less than \$70 nor more than \$140.

(2) For licensure as a clinical laboratory technologist, an application fee of not less than \$20 nor more than \$35. For each category of specialty an examination fee of not less than \$20 nor more than \$80. For biennial renewal of a license, a fee of not less than \$40 nor more than \$80.

(3) For licensure as a clinical laboratory technician, an application and examination fee of not less than \$25 nor more than \$45. For biennial renewal of a license, a fee of not less than \$30 nor more than \$60. For late filing of an application for renewal of a personnel license, the department shall assess a late fee of \$20.

(4) For approval as a laboratory personnel training program, a fee of not less than \$150 nor more than \$300. For annual renewal, a fee of not less than \$150 nor more than \$300. For late filing of an application for renewal, a fee of \$50.

(5) For licensure as a clinical laboratory, an annual fee of not less than \$210 nor more than \$1,000. No separate licensure fee shall be paid by any branch office, mobile donor unit or transfusion service operated by a blood bank when the principal location of the blood bank is licensed under this part. For late filing of an application for renewal, a fee of \$100. In any licensure period in which the department accepts an equivalent inspection of a blood bank pursuant to s. 483.061, such blood bank shall pay only a fee of \$50.

(6) For registration as a clinical laboratory trainee, an annual fee of not less than \$5 nor more than \$10.

(7) For licensure as a clinical laboratory supervisor, an application and examination fee of not less than \$25 nor more than \$50. For each category of specialty an examination fee of not less than \$20 nor more than \$80. For biennial renewal of a license, a fee of not less than \$50 nor more than \$100.

Section 5. Section 483.061, Florida Statutes, is amended to read:

*(Substantial rewording of section. See s. 483.061, F.S., for present text.)*

483.061 Inspection of clinical laboratories.—

(1) The department shall be responsible for ensuring that all clinical laboratories, collection stations, and branch offices subject to this part shall be inspected as often as reasonably necessary, but at least once annually, for the purpose of evaluating the premises, operation, supervision, and procedures of such facilities to ensure compliance with this part. The department may conduct or cause to be conducted announced or unannounced inspections at any reasonable time. The right of entry and inspection also shall be extended to any premise which is being maintained as a laboratory without a license, but no such entry or inspection shall be made without the permission of the owner or person in charge thereof, unless an inspection warrant as defined in s. 933.20 is first obtained.

(2) The department may contract with private accrediting organizations to perform inspections of clinical laboratories accredited by such organizations, including post-inspection activities required by the department. The department may, and in the case of blood banks the department shall, accept on an alternate-year basis inspections performed by such organizations if the accreditation is not provisional, if such organizations perform post-inspection activities required by the department and provide the department with all necessary inspection and post-inspection reports and information necessary for enforcement, and if such organizations apply standards equal to or exceeding standards established by the department.

Section 6. Section 483.071, Florida Statutes, is amended to read:

483.071 Approval of ~~employment of~~ laboratory training programs trainees.—

(1) The department of ~~Health and Rehabilitative Services~~ shall approve clinical laboratories ~~desiring to employ clinical laboratory trainees~~ for training programs ~~purposes~~ upon presentation of satisfactory evidence that such laboratories are *adequately* staffed by qualified personnel and *comply with rules adopted by the department to ensure that such laboratories properly equipped to provide training in clinical laboratory technique adequate to prepare individuals to meet the requirements for licensure under this part.*

(2) *The department shall adopt rules for training programs, including but not limited to curriculum, educational objectives, evaluation procedures, personnel licensure requirements, preentry educational requirements, and length of clinical training.*

(3) *The department may inspect laboratory personnel training programs.*

(4) *If the department finds that an approved program no longer meets the required standards, the department may rescind the approval.*

Section 7. Section 483.091, Florida Statutes, is amended to read:

483.091 Clinical laboratory ~~license registration~~.—No person shall conduct, maintain, or operate a clinical laboratory in this state unless a ~~license registration~~ therefor has been obtained from the department of ~~Health and Rehabilitative Services~~, except laboratories exempt under s. 483.031. A ~~license registration~~ shall be valid only for the person or persons to whom it is issued and shall not be the subject of sale, assignment, or transfer, voluntary or involuntary, nor shall a ~~license registration~~ be valid for any premises other than those for which issued. However, a new ~~license registration~~ may be secured for the new location prior to the actual change, provided the contemplated change is in compliance with the provisions of this part and the rules promulgated hereunder.

Section 8. Section 483.101, Florida Statutes, is amended to read:

483.101 Application for clinical laboratory ~~license registration~~.—Application for a clinical laboratory ~~license registration~~ shall be made under oath, by the owner or operator of the clinical laboratory or public official responsible for the operation of a state, city or county clinical laboratory or institution that contains a clinical laboratory, upon forms provided by the department of ~~Health and Rehabilitative Services~~. A ~~license registration~~ shall be issued authorizing the performance of one or more clinical laboratory procedures or one or more categories of such procedures. *Separate licensure shall be required of all laboratories maintained on separate premises even though operated under the same management.*

Section 9. Section 483.111, Florida Statutes, is amended to read:

483.111 Limitations on ~~license registration~~.—A ~~license registration~~ shall be issued to a clinical laboratory to perform only those clinical laboratory procedures and tests that are within the specialties or subspecialties in which the clinical laboratory personnel are qualified. A ~~license registration~~ shall not be issued unless the department of ~~Health and Rehabilitative Services~~ determines that the clinical laboratory is adequately staffed and equipped to operate in conformity with the requirements of this part and the rules promulgated hereunder.

Section 10. Section 483.131, Florida Statutes, is amended to read:

483.131 Display of ~~licenses clinical laboratory registration~~.—

(1) A clinical laboratory ~~license registration~~ shall specify, on the face thereof, the names of the owner or operator *and directors*, the procedures, specialties, or subspecialties or ~~categories of procedures~~ authorized, the period for which it is valid, and the location at which such procedures must be performed. *The clinical laboratory license and the licenses of all personnel therein registration shall be displayed at all times in a prominent place in the clinical laboratory where the licenses it may be viewed by the public.*

Section 11. Section 483.141, Florida Statutes, is amended to read:

483.141 Clinical laboratory personnel license.—No person shall conduct a clinical laboratory examination or report the results of such examination unless he is licensed under this part to perform such procedures. However, this provision shall not apply to any practitioner of the healing arts authorized to practice in this state. The department of ~~Health and Rehabilitative Services~~ may grant temporary licenses to candidates it deems properly qualified for a period not to exceed 6 months ~~and for such additional 6-month periods as it may decide.~~

Section 12. Section 483.151, Florida Statutes, is amended to read:

483.151 Application for clinical laboratory personnel license.—Application for clinical laboratory personnel license shall be made under oath on forms provided by the department of ~~Health and Rehabilitative Services~~ and shall be accompanied by payment of ~~fees as provided by this part~~ the first year's annual license fee. A license ~~may~~ shall be issued authorizing the performance of procedures of one or more categories.

Section 13. Section 483.152, Florida Statutes, is created to read:

483.152 Renewal of a clinical laboratory personnel license.—

(1) The department shall renew a license upon receipt of the renewal application and fee, and upon certification by the department that the licensee has demonstrated his competence.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of clinical laboratory personnel licenses.

(3) Any clinical laboratory personnel license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 483.153.

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

Section 14. Section 483.153, Florida Statutes, is created to read:

483.153 Inactive status.—

(1) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the department not to exceed \$50.

(2) A license which has been inactive for less than 1 year after the end of the biennium prescribed by the department may be renewed pursuant to s. 483.152, upon payment of the late renewal penalty. The renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(3) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The department shall prescribe, by rule, continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 15 classroom hours for each year the license was inactive and in no event shall exceed 65 classroom hours for all years in which the license was inactive.

(4) Any license which is inactive for more than 5 years shall be automatically suspended. One year prior to the suspension, the department shall give notice to the licensee. The department shall establish requirements for reinstatement of a suspended license, which may include a requirement for reexamination.

Section 15. Section 483.154, Florida Statutes, is created to read:

483.154 Periodic demonstration of competency.—

(1) As part of the license renewal procedure, the department by rule shall require licensees periodically to demonstrate their competence by completing, each 2 years, not less than 10 or more than 30 hours of continuing education in programs approved by the department.

(2) The department may allow licensees to demonstrate competency by reexamination in lieu of continuing education.

Section 16. Section 483.161, Florida Statutes, is amended to read:

483.161 Qualifications of clinical laboratory personnel.—The department of Health and Rehabilitative Services shall prescribe minimal qualifications for clinical laboratory personnel in ~~microbiology, serology, chemistry, hematology, immunohematology, biophysics, cytotechnology, or histopathological technology~~ and shall issue a license to any person who meets the minimum qualifications and who demonstrates that he possesses the character, training and ability to qualify in those areas for which the license is sought. ~~Examinations required shall be given by the department.~~

Section 17. Section 483.181, Florida Statutes, is amended to read:

483.181 Acceptance, collection, identification, and examination of specimens.—

(1) A clinical laboratory shall examine human specimens at the request only of a practitioner of the healing arts or other person authorized by law to use the findings of clinical laboratory examinations.

(2) The results of a test shall be reported directly to the licensed practitioner or other authorized person who requested it. Such report shall state the name and address of the clinical laboratory in which the

test was actually performed, except when such test was performed in a ~~hospital clinical laboratory located in a hospital and such which~~ report becomes an integral part of the hospital record.

(3) *The results of clinical laboratory tests performed by a clinical laboratory complying with this part and performed prior to admission to a facility licensed pursuant to chapter 395 shall be accepted in lieu of clinical laboratory tests required upon admission to such facility and in lieu of tests which may be ordered for patients of such facility. The department, by rule, shall establish standards for the acceptance of such laboratory tests to specify acceptable time-frames for such laboratory tests to assure that such time-frames do not adversely affect the accuracy of such test.*

(4)(3) All specimens accepted by a clinical laboratory shall be tested on the premises except that specimens for infrequently performed tests may be forwarded for examination to another clinical laboratory approved under this part. This shall not be construed as prohibiting the referral of specimens to a clinical laboratory excepted under s. 483.031. However, the clinical laboratory director of the referring clinical laboratory shall assume complete responsibility.

Section 18. Section 483.201, Florida Statutes, is amended to read:

483.201 ~~Grounds for disciplinary action against clinical laboratories. Revocation and suspension of registrations.—The following acts constitute grounds for which disciplinary actions specified in s. 483.24 may be taken against clinical laboratories: A clinical laboratory registration may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:~~

(1) Making a ~~fraudulent statement~~ ~~false statements~~ on an application for clinical laboratory ~~license registration~~ or any other documents required by the department of Health and Rehabilitative Services.

(2) Permitting unauthorized persons to perform technical procedures or to issue reports.

(3) Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations and procedures or reporting which is erroneous.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Knowingly having professional connection with or knowingly lending the use of the name of the licensed clinical laboratory or its director to an unlicensed clinical laboratory.

(6) Violating or aiding and abetting in the violation of any provision of this part or the rules promulgated hereunder.

(7) Failing to file any report required by the provisions of this part or the rules promulgated hereunder.

(8) *Reporting a test result when no laboratory test was performed on a clinical specimen.*

(9) *Performing and reporting tests in a speciality or subspecialty in which the laboratory is not licensed.*

(10) *Knowingly advertising false services or credentials.*

(11) *Failure to correct deficiencies within the time-frame required by the department.*

Section 19. Section 483.21, Florida Statutes, is amended to read:

483.21 ~~Grounds for disciplinary action against clinical laboratory personnel. Revocation and suspension of licenses.—The following acts constitute grounds for which disciplinary actions specified in s. 483.24 may be taken against clinical laboratory personnel. The license of clinical laboratory personnel may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:~~

(1) Making a ~~fraudulent~~ ~~false~~ statement on an application for a license or any other document required by the department of Health and Rehabilitative Services.

(2) Engaging or attempting to engage in or representing himself as entitled to perform any clinical laboratory procedure or category of procedures not authorized pursuant to his license.

(3) Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or reporting which is erroneous.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Having been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(6) Having been adjudged mentally or physically incompetent.

(7) Violating or aiding and abetting in the violation of any provision of this part or the rules promulgated hereunder.

(8) Reporting a test result when no laboratory test was performed on a clinical specimen.

(9) Knowingly advertising false services or credentials.

(10) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

Section 20. Section 483.23, Florida Statutes, is amended to read:

483.23 Offenses; criminal penalties.—

(1) It is unlawful for any person to:

(a)(1) Operate, maintain, direct, or engage in the business of operating a clinical laboratory, as herein defined, unless he has obtained a clinical laboratory license from the ~~department division~~ or is exempt under s. 483.031.

(b)(2) Conduct, maintain, or operate a clinical laboratory, other than an exempt laboratory, unless such clinical laboratory is under the direct and responsible supervision and direction of a person licensed under this part.

(c)(3) Allow any person to perform clinical laboratory procedures other than individuals licensed or registered under this part, except in the operation of exempt laboratories.

(d)(4) Violate or aid and abet in the violation of any provision of this part or the rules promulgated hereunder.

(2) The performance of any of the acts specified in subsection (1) constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any use or attempted use of a forged license under this part constitutes the crime of forgery.

Section 21. Section 483.24, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 483.24, F.S., for present text.)

483.24 Administrative penalties.—

(1)(a) The department may deny, revoke, suspend, limit, annul, or deny renewal of a license or impose an administrative fine, not to exceed \$500 per violation, per day, for the violation of any provision of this part or rules promulgated hereunder. Each day of violation constitutes a separate violation and is subject to a separate fine.

(b) In determining the amount of fine to be levied for a violation, as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

2. Actions taken by the licensee to correct the violations or to remedy complaints.

3. Any previous violations of the licensee.

4. The financial benefit to the licensee of committing or continuing the violation.

(c) All amounts collected pursuant to this section shall be deposited into the trust fund administered by the department pursuant to this chapter.

(2) The department may issue an emergency order immediately suspending, revoking, annulling or limiting a license when it determines that any condition in the licensed facility presents a clear and present danger to public health and safety.

Section 22. Section 483.25, Florida Statutes, is amended to read:

483.25 Injunction.—The operation or maintenance of an *unlicensed unregistered* clinical laboratory or the performance of any clinical laboratory procedures or operations in violation of this part is declared a nuisance, inimical to the public health, welfare, and safety. The department of Health and Rehabilitative Services, or any state attorney in the name of the people of the state, may, in addition to other remedies herein provided, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of any such clinical laboratory or the performance of any laboratory procedures or operations in violation of this part, until compliance with the provisions of this part or the rules promulgated hereunder has been demonstrated to the satisfaction of the department.

Section 23. Section 483.251, Florida Statutes, is created to read:

483.251 Advisory council.—

(1) The Clinical Laboratories Advisory Council is created within the department to advise the department in the fulfillment of its responsibilities under this part, including the preparation of rules and the formulation of policy and standards. The council shall consist of seven members to be appointed by the Governor and confirmed by the Senate, who shall be:

(a) A physician licensed under chapter 458, who has no financial interest in any clinical laboratory;

(b) An osteopathic physician licensed under chapter 459, who has no financial interest in any clinical laboratory;

(c) A nonphysician director of a clinical laboratory licensed under this chapter;

(d) A pathologist licensed under chapter 458;

(e) A nonphysician supervisor of a clinical laboratory licensed under this chapter;

(f) A consumer member of the Statewide Health Council.

(2) On or before December 1, 1983, the Governor shall appoint two members for terms of 2 years, two members for terms of 3 years, and three members for terms of 4 years. Thereafter, members shall be appointed for terms of 4 years.

(3) Notwithstanding the provisions of s. 20.05(3) or s. 112.061, the council members shall not be reimbursed for travel or expenses. Council members shall serve without pay.

Section 24. Section 483.288, Florida Statutes, is amended to read:

483.288 Definitions.—As used in this part:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Multiphasic Health Testing Center" or "center" means any fixed or mobile facility where specimens are taken from the human body for delivery to registered clinical laboratories for analysis and where certain measurements such as height and weight determinations, blood pressure determinations, limited audio and visual tests, and electrocardiograms are made.

(3) "Center personnel" includes all persons employed by a center, except persons employed to perform clerical or other administrative responsibilities.

Section 25. Section 483.291, Florida Statutes, is amended to read:

483.291 Powers and duties of the department of Health and Rehabilitative Services; rules.—By January 1, 1978, The department shall adopt rules to implement effect the purposes and provisions of this part, which shall include the following:

(1) LICENSING STANDARDS.—The department shall license all multiphasic health testing centers meeting the requirements of this part, and shall prescribe standards necessary for licensure.

(2) FEES.—The department shall establish an annual fee, which shall be reasonable in amount, for licensing of centers. The fee shall be sufficient in amount to cover the cost of the licensing and inspection of centers. Such fee shall be *due at the time of application and shall be payable to the department to be deposited in a trust fund administered by the department and shall be used for the sole purposes of this chapter. Such fee shall be not less than \$300 nor more than \$1,000 at least \$300 annually.*

(3) ANNUAL LICENSING.—The department shall provide for annual licensing of centers each year. Any center which fails to pay the proper fee or otherwise fails to qualify by the end of 60 days from the date of expiration of its license shall be delinquent, and its license shall be *automatically canceled subject to cancellation. The license of any center delinquent for 90 days from the license's date of expiration shall be canceled by the department without notice or further proceedings.* Upon cancellation of its license under this subsection, a center may have its license reinstated only upon application and qualification therefor as provided for initial applicants and upon payment of all delinquent fees.

(4) STANDARDS OF PERFORMANCE.—The department shall prescribe standards for the performance of health testing procedures.

(5) CONSTRUCTION OF CENTERS.—The department *may* shall establish standards for the construction, *renovation, maintenance, or repair of new, or the modification of existing,* centers which shall insure the conduct and operation of the centers in a manner which will protect the public health.

(6) SAFETY AND SANITARY CONDITIONS WITHIN THE CENTER AND ITS SURROUNDINGS.—The department shall establish standards relating to *safety and sanitary conditions within the center and its surroundings, including standards relative to water supply, sewage, the handling of specimens, disposal of needles, syringes and waste, storage of chemicals, workspace, fire safety and general measures hygiene,* which shall insure the protection of the public health.

(7) EQUIPMENT.—The department shall establish minimum standards for center equipment essential to the center's proper conduct and operation.

(8) PERSONNEL.—The department shall prescribe minimum qualifications for center personnel. A center may employ as a medical assistant a person with at least one of the following qualifications:

(a) Prior experience of not less than 6 months as a medical assistant in the office of a licensed medical doctor or osteopath or in a hospital or a health maintenance organization.

(b) Certification and registration by the American Medical Technologists Association or other similar professional association approved by the department.

(c) Prior employment as a medical assistant in a licensed center for at least 6 consecutive months at some time during the preceding 2 years.

Section 26. Section 483.317, Florida Statutes, is amended to read:

483.317 *Grounds for disciplinary action against centers* ~~Revocation and suspension of licenses.—The following acts shall constitute grounds for which disciplinary actions specified in s. 483.32 may be taken against centers: The license of a center may be denied, revoked, suspended, or annulled, or renewal thereof denied, for any of the following reasons:~~

(1) Making a *fraudulent false* statement on an application for a license or on any other document required by the department pursuant to this part;

(2) Permitting unauthorized persons to perform health testing procedures or to issue reports;

(3) Demonstrating incompetence in the performance of health testing procedures or issuing erroneous reports;

(4) Rendering a report on the results of any measurement or test to a person not authorized by law to receive such information;

(5) Knowingly having professional connection with, or knowingly lending the use of the name of the licensed center or its medical director to, an unlicensed multiphasic health testing center;

(6) Violating or aiding and abetting in the violation of any provision of this part or the rules adopted hereunder;

(7) Failing to file any report required by the provisions of this part or the rules adopted hereunder; or

(8) Engaging in false, misleading, or deceptive advertising.

Section 27. Section 483.32, Florida Statutes, is amended to read:

*(Substantial rewording of section. See s. 483.32, F.S., for present text.)*

483.32 Administrative penalties.—

(1)(a) The department may deny, revoke, suspend, limit, annul, or deny renewal of a license or impose an administrative fine, not to exceed \$500 per violation, per day, for the violation of any provision of this part or rules promulgated hereunder. Each day of violation constitutes a separate violation and is subject to a separate fine.

(b) In determining the amount of fine to be levied for a violation, as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

2. Actions taken by the licensee to correct the violations or to remedy complaints.

3. Any previous violations of the licensee.

4. The financial benefit to the licensee of committing or continuing the violation.

(c) All amounts collected pursuant to this section shall be deposited into the trust fund administered by the department pursuant to this chapter.

(2) The department may issue an emergency order immediately suspending, revoking, annulling or limiting a license when it determines that any condition in the licensed facility presents a clear and present danger to public health and safety.

Section 28. The Department of Health and Rehabilitative Services, by January 1, 1984, shall consolidate regulation of clinical laboratory personnel and clinical laboratories in the Office of Licensure and Certification.

Section 29. Notwithstanding the provisions of the Regulatory Sunset Act, sections 483.011 through 483.328, Florida Statutes, shall not stand repealed on October 1, 1983, as scheduled by such act, but such sections, as amended, are revived and readopted, except that section 483.297, Florida Statutes, as amended by chapter 82-182, Laws of Florida, shall stand repealed on October 1, 1983, as scheduled by the Regulatory Sunset Act.

Section 30. Sections 483.011 through 483.328, Florida Statutes, are repealed on October 1, 1993, and shall be reviewed pursuant to section 11.61, Florida Statutes.

Section 31. Section 381.321, Florida Statutes, is amended to read:

381.321 Laboratories.—

(1) The Department of Health and Rehabilitative Services may establish and maintain, in suitable and convenient places in the state, laboratories for microbiological and chemical analyses and any other purposes it determines necessary for the protection of the public health.

(2) The Department of Health and Rehabilitative Services shall contract with the Department of Natural Resources for laboratory services related to, but not limited to, the regulation of shellfish.

(3) *The Department of Health and Rehabilitative Services may contract or agree with any person, either natural or corporate, to provide laboratory services relating to the public health of the citizens of the state or to the health of clients directly under the care of the state.*

(4) *The Department of Health and Rehabilitative Services is authorized to establish and collect reasonable fees and charges for laboratory services provided. Such fees and charges shall be deposited in a trust fund administered by the department for the support of this activity.*

Section 32. Section 741.056, Florida Statutes, is hereby repealed.

Section 33. Section 383.12, Florida Statutes, is amended to read:

383.12 Costs and charges.—All serological tests required pursuant to s. 383.14 by this law on blood samples submitted to the laboratory of the Department of Health and Rehabilitative Services or to any of its authorized branches shall be made without charge.

Section 34. This act shall take effect July 1, 1983 or upon becoming law, whichever occurs later. If this act becomes law after July 1, 1983, it shall apply retroactively to July 1, 1983.

**Amendment 2**—In title, on pages 1-4, strike everything before the enacting clause and insert: A bill to be entitled An act relating to health care; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 483.011-483.328, Florida Statutes; amending ss. 483.031-483.071, 483.091, 483.101, 483.111-483.181, 483.201, 483.21, 483.23-483.25, 483.288, 483.291, 483.317, 483.32, Florida Statutes; creating ss. 483.052, 483.152-483.154, 483.251, Florida Statutes; providing exemptions; providing definitions; providing for rules; providing for licensure of clinical laboratories and personnel; providing for fees; providing for inspections; providing for approval of training programs; requiring display of license; providing for inactive status; requiring continuing education or reexamination; providing for minimum qualifications; providing for acceptance of laboratory tests; providing for disciplinary actions; specifying offenses and criminal penalties; providing for administrative fines and penalties; creating an advisory council; allowing to stand repealed under the Regulatory Sunset Act s. 483.297, Florida Statutes, as amended, relating to an advisory council; providing for consolidation of regulation; providing for legislative review; amending s. 381.321, Florida Statutes, authorizing fees for laboratory services; repealing s. 741.056, Florida Statutes, relating to charges for serological tests; amending s. 383.12, Florida Statutes, relating to charges for infant screening tests; providing an effective date.

On motion by Senator D. Childers, by two-thirds vote HB 1295 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	

Nays—None

*The Honorable Curtis Peterson, President*

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

**CS for SB 916**—A bill to be entitled An act relating to the tax on sales, use and other transactions; amending s. 212.08(7)(a), (c), Florida Statutes, 1982 Supplement; including certain organizations within the definitions of charitable institutions or veterans organizations; providing exemption for scientific organizations; providing the Department of Revenue with authority to review and renew or revoke certain sales tax exemptions; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—Strike everything after the enacting clause and insert:

Section 1. Paragraph (d) is added to s. 212.08(5), Florida Statutes, 1982 Supplement, to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(d) Machinery and equipment used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business manufacturing tangible personal property pursuant to federal procurement regulations at fixed locations in this state shall be partially exempt from the tax imposed in this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent.

2. Implicit productive output means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used. The percentage increase shall be measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing said items is begun divided by implicit productive output for the preceding calendar year. In no case shall the commencement of production begin later than 2 years following completion of installation of the machinery or equipment. Deflated implicit output means implicit output times the quotient of the national defense implicit price deflator for said preceding calendar year divided by the deflator for the year of said completion or commencement.

3. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery or equipment, reduced by the percentage of gross receipts from cost reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

4. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

5. For the purposes of this paragraph (d) only:

a. "Industrial machinery and equipment" shall mean "Section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and is used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Eligible cost" means the total direct and indirect costs, as defined in 32 C.F.R. 15-202 and 203, excluding general and administrative costs, selling expenses, and profit, defined by the Uniform Cost Accounting Standards adopted by the Cost Accounting Standards Board created pursuant to 50 U.S.C. 2168.

c. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

d. "Cost reimbursement type contract" shall mean the same as in 32 C.F.R. 3-405.

6. The exclusions provided in s. 212.08(5)(b)5. shall apply to this exemption. This exemption shall apply only to machinery or equipment purchased pursuant to production contracts with the U.S. Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contract is classified for national security reasons.

7. In no event shall the provisions of this paragraph apply to any expanding business whose increase in productive output could be measured under the provisions of paragraph (b)6.b. as physically comparable between the two periods.

Section 2. The provisions of s. 212.08(5)(d) shall apply to purchases made subsequent to January 1, 1984, except that it shall apply to purchases made subsequent to March 1, 1983, for any business who received a letter of determination from the Department of Revenue for a temporary tax exemption permit under the provisions of s. 212.08(5)(b).

Section 3. Paragraphs (a) and (c) of subsection (7) of section 212.08, Florida Statutes, 1982 Supplement, are amended to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Religious, charitable, *scientific*, educational, and veteran.—There shall be exempt from the tax imposed by this chapter articles of tangible personal property sold or leased directly to or by churches or sold or leased to nonprofit religious, nonprofit educational, *nonprofit scientific* or nonprofit charitable institutions and state headquarters for veterans' organizations when used in carrying on their customary nonprofit religious, nonprofit educational, *nonprofit scientific*, nonprofit charitable, or veterans' organization activities, including church cemeteries. *If a qualified veteran organization or its auxiliary does not maintain a permanent state headquarters, then articles of tangible personal property sold or leased to such organization and used to maintain the office of the highest ranking state official shall be exempt from the tax imposed by this chapter.*

(c) Restrictive definitions.—The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

1. "Religious institutions" means churches and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on.

2. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Secondary Schools, Department of Education, or the Florida Council of Independent Schools, or the Florida Association of Christian Colleges or Schools. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit corporations whose purpose is to raise funds for high schools, colleges and universities located in this state. *The term "educational institutions" includes any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code.*

3. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, or other nonprofit entities, whose sole or primary function is providing one or more of the following services if a reasonable percentage of such service is provided free of charge, or a reasonable percentage is provided at substantially reduced cost, to those unable to pay: ~~operating physical facilities in Florida at which are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.~~

a. Providing medical aid for the relief of disease, injury, or disability;

b. Providing on a regular basis physical necessities such as food, clothing, or shelter;

c. Services which provide for the prevention or rehabilitation of alcoholism, drug abuse, the prevention of suicides, or the alleviation of mental, physical or sensory health problems, and social welfare services including adoption placement, child care, community care for the elderly and other social welfare services which clearly and substantially benefit a disadvantaged or hardshipped client population;

d. Engaging primarily in medical research for the relief of disease, injury, or disability;

e. Providing legal services.

4. "Veterans' organizations" means nationally chartered veterans' organizations, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans U.S.A. and Jewish War Veterans, holding a cur-

rent exemption from federal income tax under s. 501(c)(19) of the Internal Revenue Code, or, in the case of the Disabled American Veterans, Department of Florida, Inc., and its auxiliaries, under s. 501(c)(4) of said code.

5. "Scientific organizations" means scientific organizations in Florida holding a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

6. The Department of Revenue shall adopt rules providing for the review and renewal or revocation of exemptions granted to religious, educational, scientific, or charitable institutions hereunder within 5 years from the date the exemption was established by the department. Such rules shall provide procedures which allow an organization whose exemption is proposed to be revoked by the department a period of 6 months before the revocation shall become effective to correct any operational deficiencies determined by the department to exist.

a. Any institution whose exemption is revoked by the department shall be subject to any tax, penalty, or interest due under this chapter only after the effective date of the revocation.

b. Any institution whose qualification for exemption under s. 501(c)(3), Internal Revenue Code, 1954, as amended, is revoked by the Internal Revenue Service and which has used such qualification as the basis for exemption under this subsection, shall notify the Department of Revenue of the revocation within 30 days and shall provide to the department the facts and circumstances surrounding the revocation.

c. All exemptions which have been heretofore granted by the department under this subsection shall be reviewed and renewed or revoked after the effective date of this act.

Section 4. Subsection (8) is added to section 212.031, Florida Statutes, 1982 Supplement, to read:

212.031 Lease or rental of real property.—

(8) The lease, sublease, or rental of space by a movie theater owner or operator to a person providing food and drink concessionaire services within the premises of such theater shall be exempt from the tax imposed by this section.

Section 5. Paragraph (a) of subsection (4) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(4) ORDINANCE LEVY TAX; PROCEDURE.—

(a) The tourist development tax shall be levied and imposed pursuant to an ordinance containing the county's tourist development plan prescribed under paragraph (c), enacted by the governing board of the county. The ordinance levying and imposing the tourist development tax shall not be effective unless the electors of the county or the electors in the subcounty special district in which the tax is to be levied approve the ordinance authorizing the levy and imposition of the tax, in accordance with subsection (6). The effective date of the levy and imposition of the tax shall be the first day of the month following approval of the ordinance by referendum as prescribed in subsection (6) or the first day of any subsequent month as may be specified in the ordinance. A certified copy of the ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance. The governing authority of any county levying such tax shall notify the department, within 10 days after approval of the ordinance by referendum, of the time period during which the tax shall be levied.

Section 6. Present subsection (3) of section 125.0165, Florida Statutes, 1982 Supplement, is renumbered as subsection (4) and a new subsection (3) is added to said section to read:

125.0165 Discretionary sales tax; adoption; application of revenue.—

(3) The governing authority of any county levying the tax authorized by this section shall notify the department within 10 days after approval of the ordinance of such approval and of the time period during which the tax shall be levied.

(4)(2) Revenues from the discretionary 1-percent tax shall be deposited in the rapid transit trust fund and used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, and related costs of a fixed guideway rapid transit system.

Section 7. Subsection (2) of section 212.07, Florida Statutes, is amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(2) Dealers shall, as far as practicable, add the amounts of the tax imposed under this chapter to the sale price and the amount of the tax shall be separately stated as Florida tax on any charge tickets, sales slips, invoices or other tangible evidence of sale, and such tax shall constitute a part of such price, charge or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who shall neglect, fail or refuse to collect the tax herein provided upon any, every and all retail sales made by him or his agents or employees of tangible personal property which is subject to the tax imposed by this chapter shall be liable for and pay the tax himself.

Section 8. Paragraph (c) of subsection (1) of section 212.08, Florida Statutes, 1982 Supplement, is amended to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—There shall be exempt from the tax imposed by this chapter foods and drinks for human consumption and candy, but only when the price at which said candy is sold is 25 cents or less. Unless the exemption provided by paragraph (7)(b) for school lunches or the exemption provided by paragraph (7)(l) for meals provided by certain nonprofit organizations pertains, none of such items of food and drink shall mean:

(c) Soft drinks which include but are not limited to: any nonalcoholic beverage, any preparation or beverage commonly referred to as a "soft drink," or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" shall not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; or coffee, coffee substitutes, tea except tea when sold in containers as provided herein, cocoa, or natural fluid milk; or

Section 9. Subsection (1) of section 212.12, Florida Statutes, 1982 Supplement, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) For the purpose of compensating the lessors of real and personal property taxed hereunder, and for the purpose of compensating dealers in tangible personal property and for the purpose of compensating owners of places where admissions are collected, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, lessor, owner, and dealer shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow the said deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and collection of taxes and remitting the same; however, the 3 percent allowance shall not be granted nor shall any deduction be permitted where the tax is delinquent at the time of payment or where there is a manifest failure to maintain proper records or make proper prescribed reports. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000.

(a) The collection allowance shall not be granted nor shall any deduction be permitted if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" means, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to insure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including but not limited to: the amount of gross sales, the amount of taxable sales, the amount of tax collected or due, the amount of lawful refunds, deductions, or credits claimed, the amount claimed as the dealer's collection allowance, the amount of penalty and interest, the amount due with the return and such other information as the Department of Revenue shall specify.

Section 10. Subsection (2) of section 218.61, Florida Statutes, 1982 Supplement, is amended to read:

218.61 Local government half-cent sales tax; designated proceeds; trust fund.—

(2) Notwithstanding the provisions of s. 212.20(1), one-half of the net additional taxes remitted pursuant to chapter 82-154, Laws of Florida, by a sales tax dealer located within the county shall be transferred into ~~deposited in~~ the Local Government Half-cent Sales Tax Clearing Trust Fund and earmarked for distribution to the governing body of that county and of each municipality within that county. Such moneys shall be known as the "local government half-cent sales tax."

Section 11. Subsection (9) of section 220.02, Florida Statutes, 1982 Supplement, is amended to read:

220.02 Legislative intent.—

(9) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 631.575, those enumerated in s. 440.385(13), those enumerated in s. 220.18, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.189, and those enumerated in s. 221.02.

Section 12. Paragraph (l) of subsection (1) of section 220.03, Florida Statutes, 1982 Supplement, and paragraph (c) of subsection (2) of said section are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(l) "Internal Revenue Code" means the United States Internal Revenue Code of 1954, as amended and in effect on January 12 ~~January 1, 1983~~ 1982, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 12 ~~January 1, 1983~~ 1982. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 13. Paragraph (e) of subsection (2) of section 220.13, Florida Statutes, 1982 Supplement, is amended to read:

220.13 "Adjusted federal income" defined.—

(2) For purposes of this section, a taxpayer's taxable income for the taxable year means taxable income as defined in s. 63 of the Internal Revenue Code and properly reportable for federal income tax purposes for the taxable year, but subject to the limitations set forth in paragraph (1)(b) with respect to the deductions provided by ss. 172 (relating to net operating losses), 170(d)(2) (relating to excess charitable contributions), 404(a)(1)(D) (relating to excess pension trust contributions), 404(a)(3)(A) and (B) (to the extent relating to excess stock bonus and profit-sharing trust contributions), 404(d) (relating to excess contributions under the 1939 code), and 1212 (relating to capital losses) of the Internal Revenue Code, except that, subject to the same limitations:

(e) "Taxable income," in the case of a real estate investment trust subject to the tax imposed by s. 857 of the Internal Revenue Code, means the income subject to tax, computed as provided in s. 857 ~~852~~ of the Internal Revenue Code;

Section 14. Subsection (3) of section 220.32, Florida Statutes, is amended to read:

220.32 Payments of tentative tax.—

(3) Interest on any amount of tax due and unpaid during the period of any extension shall be payable as provided in s. 214.43. *The taxpayer shall also be liable for a penalty in an amount determined at the rate of 12 percent per year upon the amount of any underpayment of the tax due.*

Section 15. Subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(a) Except as provided in paragraph (d), the taxpayer shall be liable for interest at the rate of 12 ~~6~~ percent per year and for a penalty in an amount determined at the rate of 12 ~~10~~ percent per year upon the amount of any underpayment of estimated tax determined under this subsection.

(b) For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

1. The amount of the installment which would be required to be paid if the estimated tax were equal to 90 ~~80~~ percent of the tax shown on the return for the taxable year or, if no return were filed, 90 ~~80~~ percent of the tax for such year, over

2. The amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) The period of the underpayment for which interest and penalties shall apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The first day of the fourth month following the close of the taxable year; or

2. With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

(d) No penalty or interest for underpayment of any installment of estimated tax shall be imposed if the total amount of all such payments made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lesser of:

1. An amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return for, and the law applicable to, the preceding taxable year; or

2. An amount equal to 90 ~~80~~ percent of the tax finally due for the taxable year. ~~;~~

~~3.—An amount equal to the tax shown on the taxpayer's return for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of 12 months.~~

(e) For purposes of paragraphs (b) and (d), the term "tax" shall mean the excess of the tax imposed by this code over all amounts properly credited against such tax for the taxable year.

(f) The application of this subsection to taxable years of less than 12 months shall be in accordance with regulations prescribed by the department.

~~(g) The provisions of this subsection shall not apply with respect to any taxable year beginning before January 1, 1973.~~

Section 16. Subsection (1) of section 221.01, Florida Statutes, 1982 Supplement, is amended to read:

221.01 Emergency excise tax; generally.—

(1) The department shall charge and collect an emergency excise tax for each taxable year from every taxpayer liable for the tax imposed by, and required to file a return under, chapter 220, except for those taxpayers subject to s. 220.03(5)(c). The provisions of this chapter shall apply retroactively to all such taxpayers, effective to the effective date of s. 168 of the Internal Revenue Code of 1954, as amended.

~~(a) The amount of the tax shall be 2 percent of an amount equal to 2.5 times the remainder of 40 percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220. The amount of the tax shall be an amount equal to 2 percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15 for the taxable year for which the return required by chapter 220 is filed.~~

(b) If the taxpayer's net income, as defined in s. 220.12, for the taxable year for which the return required by chapter 220 is filed is a net operating loss under chapter 220, excluding any net operating loss carryovers and carrybacks, the amount of the tax shall be 2 percent of an amount equal to 2.5 times the remainder of:

1. Forty percent of the deduction allowed, *in computing adjusted federal income as defined in s. 220.13*, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, *minus any unused portion of the exemption provided for in s. 220.14* for the taxable year for which the return is required to be filed by chapter 220; minus

2. The net operating loss, as apportioned to this state under s. 220.15, excluding any net operating loss carryovers and carrybacks.

(c) If the taxpayer directly or indirectly owns an interest in a partnership, trust, or other entity which is not treated as an association taxable as a corporation under the Internal Revenue Code which owns property for which a deduction is allowed under s. 168 of the Internal Revenue Code of 1954, as amended, the taxpayer shall, for the purpose of computing the tax due under this section, include the taxpayer's distributive share of any deduction allowed under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code, which is attributable to such direct or indirect interest and which is apportioned to this state under s. 220.15 for the taxable year for which the return is required to be filed by chapter 220.

Section 17. Subsection (1) of section 221.02, Florida Statutes, 1982 Supplement, is amended to read:

221.02 Credit for emergency excise tax paid.—

(1) The emergency excise tax paid pursuant to s. 221.01 *plus any credit or carryover properly applied to reduce the amount of the emergency excise tax due* for the taxable year shall be allowed as a credit against the emergency excise tax, if any, to be charged and collected pursuant to this chapter for the return filed for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required. To the extent that the credit exceeds the emergency excise tax, if any, for the return filed for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required, such excess shall be allowed as a reduction of, and credit against, any tax imposed by chapter 220 upon the taxpayer for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required. If the taxpayer is unable to fully utilize the credit in the year in which it is first allowed, it may be carried over to each of the 5 taxable years immediately thereafter.

Section 18. This act shall take effect upon becoming a law.

**Amendment 2**—Strike everything before the enacting clause and insert: A bill to be entitled An act relating to taxation; use and other transactions; adding paragraph (d) to s. 212.08(5), Florida Statutes, 1982 Supplement; providing a partial exemption for industrial machinery and equipment purchased by an expanding business manufacturing tangible personal property pursuant to federal procurement regulations under specified conditions; providing for refund of previously paid taxes; providing for the application of specified exclusions; providing application of said provisions; amending s. 212.08(7)(a) and (c), Florida Statutes, 1982 Supplement; clarifying the definition of charitable institutions, educational institutions, and veteran organizations; providing exemptions to nonprofit, educational television or radio networks or systems or stations; requiring the Department of Revenue to review and renew or revoke certain sales tax exemptions; creating s. 212.031(8), Florida Statutes, 1982 Supplement; exempting the rental of space by a movie theater owner or operator to a person providing concessionaire services; amending s. 125.0104(4)(a), Florida Statutes; amending s. 125.0165(3), Florida Statutes, 1982 Supplement; requiring local governing authorities to notify the Department of Revenue of approval of certain tax levies; amending s. 212.07(2), Florida Statutes; requiring dealers to separately state the amount of sales tax; amending s. 212.08(1)(c), Florida Statutes, 1982 Supplement; exempting soft drinks from the sales tax; providing an exception; amending s. 212.12(1), Florida Statutes, 1982 Supplement; providing for disallowance by the department of dealer's collection allowance for incomplete returns; requiring the Department of Revenue to adopt certain rules; amending s. 218.61(2), Florida Statutes, 1982 Supplement; providing for transfer of sales and use tax revenues into the Local Government Half-cent Sales Tax Clearing Trust Fund; providing for retroactive operations; amending s. 220.02(9), Florida Statutes, 1982 Supplement, as amended; providing order of credits against the tax; amending s. 220.03(1)(l), (2)(c) and (5), Florida Statutes, 1982 Supplement; revising the definition of "Internal Revenue Code"; amending s. 220.13(2)(e), Florida Statutes, 1982 Supplement; correcting a reference; amending s. 220.32(3), Florida Statutes, relating to payments of tentative tax; providing a penalty on underpayment of tax due; amending s. 220.34(2), Florida Statutes; revising provisions relating to imposition of interest and penalties with respect to failure to pay estimated taxes; revising interest and penalty rates; revising method of determining amount of underpayment; revising provisions for determining when such interest and penalties shall not be imposed; deleting a provision relating to application of said subsection; amending s. 221.01(1), Florida Statutes, 1982 Supplement; revising provisions relating to calculation of the amount of the tax; amending s. 221.02(1), Florida Statutes, 1982 Supplement; revising provisions relating to credit for emergency excise tax paid; providing an effective date.

On motions by Senator Margolis, the Senate concurred in the House amendments.

CS for SB 916 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Carlucci	Gordon	Mann	Stuart
Castor	Grant	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	
Frank	Johnston	Plummer	

Nays—None

The bill was ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for SB 302, SB 1053, CS for SB 1142, SB 1149, CS for SB 87, SB 951, CS for SB 1002, SB 1202, SB 325, SB 1198, CS for SB 1108, SB 216, CS for CS for SB 262, SB 576, CS for CS for SB 57, CS for CS for SB 110, SB 1029, SB 411, SB 113, CS for SB 464, CS for SB 309, SB 830, SB 379, CS for SB 459, CS for SB 964, CS for SB 1077, SB 568, CS for SB 626, SB 55, CS for SB 810, SB 398, CS for SB 556 and SB 765.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has adopted by the required Constitutional three-fifths vote of the membership of the House SCR 1209.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has adopted SCR 515 and passed Senate Bills 787, 656, 242, CS for SB 77 and CS for SB 1049.

*Allen Morris, Clerk*

The bills contained in the foregoing message were ordered enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 3 and 4 to CS for SB 783 and passed as amended.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House Amendments 1 and 2 and passed SB 129, as amended.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment to House Amendment 4 and passed SB 126, as amended.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 1 and passed CS for SB 435, as amended.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House Amendments 1 and 2 and passed SB 1050, as amended.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House Amendments 3, 4 and 5 and has receded from House Amendments 1, 2, 6, 7, 8, 9, 10, 11, 12, 13 and passed SB 256, as amended.

*Allen Morris, Clerk*

The bills contained in the foregoing messages were ordered engrossed and then enrolled.

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for HB 770, HB 121 and HB 60.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended HB's 1164, 1075, CS for HB 1217, HB's 832, 1027, 968, 574, 489, 708, 820, 1046, 473, 408, 599, 1305, 184, CS for HB 602, CS for HB 557, HB's 1079, 1295, 1302, CS for HB 362, HB's 1277, 1239, 470, 1244, 1165, 1117, 994, 746, 142, 1260, 745, 1220, 1257, 1159, 819 and 825.

*Allen Morris, Clerk*

*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has recessed from House Amendments 1, 3 and 4 to Senate Amendment 1 and House Amendments 2 and 5 to Senate Amendment 2; has concurred in Senate Amendments 1 and 2 and passed as amended HB 1169

*Allen Morris, Clerk*

**ENROLLING REPORTS**

SB 845, SB 847, CS for SB 44, SB 395, SB 619, SB 124, SB 319, SB 382, SB 484, SB 485, SB 501, SB 502, SB 503, SB 616, SB 746, SB 1140, SB 1162, SB 1184, SB 1190 and SB 1193 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 2, 1983.

*Joe Brown, Secretary*

**CORRECTION AND APPROVAL OF JOURNAL**

The Journal of June 2 was corrected and approved as follows:

Page 745, column 1, from bottom, strike lines 11 through 23 and insert:

**HB 1305**—A bill to be entitled An act relating to elections; amending s. 99.061(1), (2), (3), and (4), Florida Statutes, as amended, relating to the qualifying period for candidates; amending s. 99.103(2), Florida Statutes, relating to the remitting of fees to the state executive committees by the Department of State; amending s. 100.021, Florida Statutes, relating to the notice of general election; amending s. 100.061, Florida Statutes, changing the date of the first primary election; amending s. 100.091(1), Florida Statutes, changing the date of the second primary election; amending s. 101.62, Florida Statutes; providing time period for delivery or mailing of absentee ballots; authorizing the Department of State to prescribe certain rules for a ballot to be sent to absent electors overseas under certain circumstances; amending s. 101.65, Florida Statutes, 1982 Supplement; providing instructions to absent electors; amending ss. 103.021(3) and 103.022, Florida Statutes, relating to candidates for President and Vice President; amending s. 105.031(1), Florida Statutes, relating to the qualifying period for judicial candidates; amending s. 106.07(1), Florida Statutes, 1982 Supplement, relating to campaign reports; providing an effective date.

Page 748, column 1, line 22, strike "960" and insert: 860

Page 749, column 1, from bottom, line 13, strike "HB" and insert: SB

Page 757, column 1, line 8, strike "283" and insert: 293

Page 759, column 2, from bottom, between lines 16 and 17 insert:

Yeas—39

Mr. President	Crawford	Gordon	Jenne
Barron	Dunn	Grant	Jennings
Carlucci	Fox	Grizzle	Johnston
Castor	Frank	Hair	Kirkpatrick
Childers, D.	Gersten	Henderson	Langley
Childers, W. D.	Girardeau	Hill	Malchon

Mann	Meek	Rehm	Thurman
Margolis	Myers	Scott	Vogt
Maxwell	Neal	Stuart	Weinstein
McPherson	Plummer	Thomas	

Nays—None

Page 762, column 1, line 32, after ";" insert: amending s. 395.503(1), Florida Statutes, 1982 Supplement; providing for the appointment of two representatives to the board, each representing a major nonhealth and noninsurance Florida employer;

Page 762, column 1 from bottom, line 21, after ";" insert: providing an appropriation;

Page 763, column 1, strike lines 13 through 30 and insert:

**SB 1149**—A bill to be entitled An act relating to the Department of Transportation; amending s. 334.21(9), Florida Statutes, 1982 Supplement; authorizing the department to amend its final annual program budget and 5-year construction plan during the fiscal year by adding certain projects, and by adding to, deleting from, or rescheduling certain projects in said plan; requiring notification to legislative committees and members under certain circumstances; amending s. 334.2105, Florida Statutes; providing for a single cash control account for charges incurred by certain budget entities to other budget entities; requiring adequate records and reports; providing an effective date.

The Journal of May 31 was further corrected and approved as follows:

Page 528, column 2, from bottom, between lines 12 and 13 insert:

*Prior to issuance of a construction permit to erect, the elevator company shall have on file with the department, a certificate of comprehensive general liability insurance evidencing coverage limits in the minimum amount of \$100,000 per person and \$200,000 per occurrence.*

Page 576, column 1, from bottom, between lines 2 and 3 insert: On motions by Senator Scott, by two-thirds vote HB 1023 was withdrawn from the Committee on Commerce and by two-thirds vote placed on the special order calendar.

The Journal of May 13 was further corrected and approved as follows:

Page 268, column 1, from bottom, between lines 20 and 21 insert: Proof of publication of the required notice was attached.

The Journal of May 3 was further corrected and approved as follows:

Page 210, column 2, from bottom, line 5, after "was" insert: read the first time by title and

**CO-INTRODUCERS**

Senator Gersten—SB 463; Senator Scott—SB 942

Senator Barron moved that the Senate stand in recess while the conference committees continued working toward the conclusion of the work product of the session, until Thursday, June 9, at 10:00 a.m. or upon call of the President, pursuant to SCR 1209. The motion was adopted.

The Senate recessed at 1:39 p.m. to reconvene at 10:00 a.m., Thursday, June 9 or upon call of the President.