



Journal of the Senate

Number 18

Thursday, May 22, 1986

PRAYER

The following prayer was offered by the Rev. John C. Boone, Pastor, Lakeview Baptist Church, Tallahassee:

"That first of all, supplications, prayers, intercessions and giving of thanks, be made for all men, for kings, and for all that are in authority, that we may lead a quiet and peaceful life, in all godliness and honesty."

Heavenly Father, I thank you for this state and these leaders. I pray for our Governor, the President of this Senate and for everyone of these elected officials who serve here.

I pray that you will build a wall of protection around them and their families.

I ask that you will give them wisdom and courage to uphold the laws of our state.

I ask that you would rebuke the enemy, Satan, from deceiving any of these lawmakers and causing them to make the wrong decisions.

O Lord, may these, our state leaders, cast down every law and policy which would weaken our families or our moral standards.

I ask that they would recognize that all authority comes from you and not the voters, and that you have entrusted to them the responsibility for good government.

I base this prayer on your word, asking you to heal our land. In the name and through the blood of the Lord Jesus Christ, I pray. Amen.

CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—39:

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Castor	Girardeau	Kiser	Scott
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crawford	Grizzle	Mann	Thurman
Crenshaw	Hair	Margolis	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

Special Guest

The President presented to the Senate the Honorable Lawton Chiles, United States Senator from Florida, who addressed the Senate.

Consideration of Resolution

On motion by Senator Jenne, by unanimous consent—

By Senator Johnston—

SR 1328—A resolution commending the efforts of "Hands Across America" in helping hungry and homeless people in our country.

WHEREAS, the serious problems of hungry and homeless people in our country are well known to all Americans, and

WHEREAS, in an effort to bring further attention to these problems and to raise funds to support the hungry and homeless, millions of Americans will be joining hands on May 25, 1986, to form a human chain from Los Angeles to New York, and

WHEREAS, the Florida Senate encourages all Floridians to support these efforts, either by participating in or making financial contributions to "Hands Across America," NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the participants in and contributors to "Hands Across America" are commended for their efforts to help hungry and homeless Americans.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Jessica Cowgill, a student at Sealey Elementary School in Tallahassee who will participate in "Hands Across America," as a tangible token of the support of the Florida Senate for all Floridians who will participate in or contribute to "Hands Across America."

—was introduced out of order and read the first time by title. On motion by Senator Jenne, SR 1328 was read the second time in full and unanimously adopted.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, May 22, 1986: CS for SB 586, CS for SB 16, CS for SB 192, CS for SB 336, SB 227, SB 509, CS for SB's 517, 407 and 540, CS for SB 1023, SB 1119, CS for SB 1010, SB 1237, CS for SB 1241, SB 689, CS for SB 137, SB 449, SB 555, SB 1057, SB 1170, SB 929, CS for SB 1247, HB 65, SB 152, SB 575

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Governmental Operations recommends the following pass: SB 671, SB 1033 with 2 amendments, CS for SB 1104 with 2 amendments, SB 1240

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Governmental Operations recommends the following pass: SB 795 with 1 amendment

The bill was referred to the Committee on Corrections, Probation and Parole under the original reference.

The Committee on Governmental Operations recommends the following pass: CS for SB 185

The Committee on Judiciary-Civil recommends the following pass: HB 372

The bills contained in the foregoing reports were referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Education recommends the following pass: SB 585

The bill was referred to the Committee on Rules and Calendar under the original reference.

The Committee on Education recommends the following pass: SB 1029 with 1 amendment

The Committee on Governmental Operations recommends the following pass: HB 963, SB 663, SB 832

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

The Committee on Governmental Operations recommends the following not pass: SB 187

The bill was laid on the table.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 538

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 1026

The bill with committee substitute attached was referred to the Committee on Commerce under the original reference.

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: Senate Bills 829, 402 and 223

The bills with committee substitute attached were referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Governmental Operations recommends a committee substitute for the following: SB 1149

The bill with committee substitute attached was referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 1231

The bill with committee substitute attached was referred to the Committee on Governmental Operations under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 915

The bill with committee substitute attached was referred to the Committee on Health and Rehabilitative Services under the original reference.

The Committee on Governmental Operations recommends a committee substitute for the following: CS for SB's 1056 and 1080

The bills with committee substitute attached were referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends committee substitutes for the following: SB 758, SB 1298

The bills with committee substitutes attached were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends committee substitutes for the following: SB 138, SB 431, SB 495, SB 529, SB 1042, SB 1101; Senate Bills 1234 and 718

The bills with committee substitutes attached were placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

May 21, 1986

The Committee on Appropriations requests an extension of 15 days for consideration of the following: Senate Bills 10, 11, 17, 26, 28, 30, 35, 42, 53, 54, 60, 63, 69, 70, 75, 79, 86, 88, 89, 105, 106, 109, 115, 116, 119, 122, 126, 131, 132, 141, 148, 149, 150, 156, 159, 163, 167, 172, 193, 198, 218, 229, 232, 244, 258, 265, 266, 267, 269, 274, 291, 292, 294, 312, 315, 341, 342, 344, 348, 369, 373, 377, 381, 385, 386, 397, 414, 432, 438, 442, 450, 451, 452, 459, 460, 463, 469, 470, 472, 475, 476, 485, 486, 489, 492, 503, 516, 519, 527, 552, 554, 558, 559, 565, 569, 573, 574, 577, 578, 583, 590, 591, 607, 613, 640, 644, 653, 669, 670, 696, 735, 736, 737, 760, 762, 763, 779, 784, 787, 791, 798, 800, 810, 813, 814, 817, 826, 828, 830, 831, 837, 850, 863, 864, 865, 881, 883, 884, 886, 892, 901, 919, 927, 931, 935, 939, 957, 959, 970, 976, 982, 990, 996, 999, 1001, 1004, 1005, 1012, 1017, 1018, 1022, 1030, 1037, 1045, 1073, 1090, 1105, 1111, 1143, 1161, 1162, 1191, 1192, 1202, 1206, 1252, 1256

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following: Senate Bills 354, 482, 1117; House Bills 197, 1190

The Special Master on Claims requests an extension of 15 days for consideration of the following: Senate Bills 320, 355, 947, 1121, 1122; House Bill 191

May 22, 1986

The Committee on Finance, Taxation and Claims requests an extension of 15 days for consideration of the following: Senate Bills 171, 433, 434, 491, 524, 528, 600, 673, 711, 752, 783, 805, 875, 954, 955, 1014, 1038, 1077, 1098, 1154, 1203, 1257

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 15 days for consideration of the following: Senate Bills 133, 201, 284, 317, 493, 521, 771, 815, 995; House Bill 75

INTRODUCTION AND REFERENCE OF BILLS

First Reading

Senator Johnson—

SB 1323—A bill to be entitled An act relating to the Sarasota County Public Hospital Board, Sarasota County; amending ss. 1, 3, 7, 8, ch. 26468, Laws of Florida, 1949, as amended; requiring the hospital board to create three hospital board districts as specified; providing that the hospital board fix the district boundaries, as specified, at intervals of no more than 10 years; requiring that the hospital board send the supervisor of elections the resolution that pertains to district boundaries; providing for the election of hospital board members from each district and at large; prohibiting the grouping on the ballot of candidates for district seats and at-large seats; prescribing the ballot format; providing for temporarily filling a vacancy on the board; providing for the commencement and the expiration of a member's term of office; enabling the hospital board to appoint certain officers and specifying the powers of such officers; providing for deposit and disbursement of moneys received; allowing the hospital board to participate as a partner or member of all lawful forms of business organization; providing for the hospital board to elect the boards of directors of its not-for-profit corporations; providing for the establishment of a fund to promote the activities of facilities owned or operated by the hospital board; enabling the hospital board to compromise, settle, and assign accounts receivable; providing for the hospital board to establish, own, provide, or participate in health maintenance organizations, preferred provider organizations, food services, and other health care activities; providing for the payment of capital expenditures from its bank accounts by procedures adopted by the hospital board; allowing the hospital board to establish, operate, and support subsidiaries and affiliates for specified purposes and through specified means; amending ss. 1, 4, ch. 61-2868, Laws of Florida; providing for hospital liens for "hospital care," as defined; providing for the order of payment of claim judgments or settlements; amending s. 8, ch. 83-525, Laws of Florida; providing that specified operations of the hospital established under chapter 26468, Laws of Florida, 1949, as amended, remain under the direct control and administration of the hospital board; providing for the operation of nonhospital health care services and related activities by other entities; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 1324 was introduced and adopted May 20.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Economic, Community and Consumer Affairs and Senator Kiser—

CS for SB 138—A bill to be entitled An act relating to professional regulation; creating s. 455.2273, F.S.; requiring regulatory boards to establish disciplinary guidelines by rule; amending s. 455.2285, F.S.; requiring additional information in an annual report; amending s. 455.223, F.S.; providing that subpoenas shall be supported by affidavit; amending s. 455.225, F.S.; eliminating anonymous complaints as a basis for departmental investigation; amending s. 455.24, F.S.; providing an exemption to the required statement for advertisement by health care providers of free or discounted services; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Girardeau—

CS for SB 431—A bill to be entitled An act relating to local governments; prohibiting certain local actions which require the registration or background screening of persons engaged in or applying for employment in specified types of employment; providing an exception; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Malchon—

CS for SB 495—A bill to be entitled An act relating to sale, by counties, of real property; amending s. 125.35, F.S.; revising the standards and procedure by which a board of county commissioners may effect the private sale of certain real property; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Johnson—

CS for SB 529—A bill to be entitled An act relating to cremation; creating s. 470.0255, F.S., providing a procedure for declaration of intent with respect to cremation; providing for the disposition of cremated remains; providing for review and repeal; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Stuart—

CS for SB 538—A bill to be entitled An act relating to psychological services; amending ss. 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, 490.0085, 490.009, 490.0111, 490.012, and 490.014, F.S.; removing provisions relating to regulation of clinical social workers, marriage and family therapists, and mental health counselors; conforming language; removing obsolete language; modifying provisions relating to license renewal, inactive status, and disciplinary actions, violations, and exemptions; creating chapter 491, F.S., the "Counseling and Clinical Therapy Act"; providing intent; providing definitions; creating the Board of Counseling and Clinical Therapy; providing for licensure by examination for clinical social workers, marriage and family therapists, and mental health counselors; providing for licensure by endorsement; providing for license renewal; providing for inactive status; providing for board approval of continuing education providers, programs, and courses; requiring proof of completion of continuing education; providing disciplinary actions and grounds therefor; providing violations; providing a penalty; providing for injunction; providing exemptions from the provisions of the chapter; providing for the practice of hypnosis; providing for certification of certified master social workers; providing for confidentiality and privileged communications; providing for continuation of certain rules, legal and administrative proceedings, and licenses; amending ss. 232.02 and 394.455, F.S.; correcting cross references; repealing s. 490.015, F.S., relating to duties of the Department of Professional Regulation with respect to clinical social workers, marriage and family therapists, mental health counselors, and school psychologists; providing for review and repeal of chapter 491, F.S.; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senators Hair, Dunn, Kirkpatrick, Langley, Myers and Thomas—

CS for SB 1042—A bill to be entitled An act relating to public accountancy; amending s. 473.308, F.S.; providing for a waiver of a portion of the educational requirements for certain applicants for licensure; amending s. 473.317, F.S.; authorizing the Legislature to reopen certain competitive negotiation procedures; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Kiser—

CS for SB 1101—A bill to be entitled An act relating to municipal annexation; amending s. 171.0413, F.S.; providing for a brief general description of the area to be annexed and the publication of a map; providing for public access to the complete legal description by metes and bounds and a copy of the ordinance; amending s. 171.044, F.S.; providing for a brief general description of the area to be voluntarily annexed and the publication of a map; providing for public access to the complete description by metes and bounds and a copy of the ordinance; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senators Peterson and Kirkpatrick—

CS for SB's 1234 and 718—A bill to be entitled An act relating to veterinary medical practice; amending s. 474.207, F.S.; placing a limitation on the number of times an applicant may attempt to pass the licensure examination; amending s. 474.214, F.S.; providing procedures with respect to authority of the Department of Professional Regulation to compel a licensee to submit to a physical or mental examination; repealing s. 474.2185, F.S., relating to the consent of a licensee to render a handwriting sample or to waive the confidentiality and authorize the release of medical reports of the licensee; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional two-thirds vote of all Members voting on May 20, 1986, the Governor's objections to the contrary notwithstanding—

HB 170 (1985 Regular Session)—An act relating to insurance; amending s. 627.419, F.S., requiring chiropractic coverage in certain insurance policies, plans, and contracts; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Honorable George Firestone
Secretary of State

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections House Bill 170, enacted by the Ninth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1985, and entitled:

An act relating to insurance; amending s. 627.419, F.S., requiring chiropractic coverage in certain insurance policies, plans and contracts; providing an effective date.

This bill mandates that all health insurance policies, health care services plans and other such contracts for the payment of medical expense benefits or procedures include chiropractic coverage as an integral part of the benefit structure. In addition, this bill requires that any limitation or condition placed upon payment to any licensed physicians be applied equally to all licensed physicians.

House Bill 170 unfairly interferes with the private right to contract. The terms of a health insurance contract are best left to the insurer and the employer/insured. Absent some compelling public policy which necessitates imposition of qualifications or benefits, the freedom to contract should not be preempted by the state.

A similar bill (HB 475) was passed by the Regular Legislative Session of 1984 and I withheld my approval of that legislation. The information presented to me since that time has not diminished the concerns I previously expressed. To the contrary, language added to the legislation this year which requires uniform application of payment limitations, serves to amplify these concerns.

Containment of spiraling health care costs is among the most difficult challenges facing the public and private sectors in Florida today. Mandatory coverage of chiropractic care is likely to increase overall health care costs, and is certain to increase health insurance costs for persons who currently have no chiropractic care. Costs associated with this legislation can be demonstrated by assessing its impact upon the State Group Insurance Plan. Chiropractic coverage is currently available on a personal choice basis under the State Plan. Those who desire it can pay for and obtain chiropractic coverage.

At the present time, 5,113 employees and retirees have opted for this coverage. Another 2,853 legislative and senior management employees receive chiropractic coverage on a nonelective basis. Because chiropractic claims continually exceed premium revenues, this portion of the State Plan has accumulated a deficit in excess of \$3.2 million. Therefore, in March of 1985, several cost containment measures were imposed on chiropractic coverage: (1) a limit of \$400 or 26 visits per calendar year (whichever comes first) per participant; (2) an arrangement with the Florida Preferred Provider Organization for reduced fees and utilization of a claims review process; and (3) a separate \$100 calendar year deductible for chiropractic physician charges.

Assuming these cost containment measures were continued, the cost of mandating chiropractic coverage under the State Plan has been estimated at \$1 million. However, there is reason to believe that these cost containment measures could not be continued because of language in HB 170 which requires that any limitation on payment to any licensed physician be imposed equally upon all licensed physicians. This requirement is itself more troublesome than the mandated chiropractic coverage. The bill states:

"Any limitation or condition placed upon payment to or services, diagnosis, or treatment by, any licensed physician shall apply equally to all licensed physicians without unfair discrimination to the usual and customary treatment procedures of any class of physicians."

This language is subject to many interpretations. It could serve to limit or eliminate preferred provider organizations, as they both place limitations on payments to providers and subject certain providers to reviews not required of other providers. It could mandate that all classes of physicians be included in a preferred provider organization. It could prohibit use of survey-based fee schedules whereby providers are reimbursed on the basis of usual and customary fees charged by a certain class of provider in a certain locale. It could prohibit separate deductibles such as the \$100 chiropractic deductible applicable to the State Plan. Finally, the restriction could be interpreted to severely limit an insurer from exercising judgment as to the medical necessity of treatment. The language prohibits "unfair discrimination to the usual and customary treatment procedures of any class of physicians." Therefore, if one class of physicians considers a course of treatment to be "usual and customary", an insurer could not refuse payment on the basis that other classes of providers consider the treatment experimental or unnecessary.

For the above reasons, I am withholding my approval of House Bill 170, Regular Session of the Legislature, commencing on April 2, 1985, and do hereby veto the same.

Sincerely,
Bob Graham
Governor

The bill, together with the Governor's objections thereto, was referred to the Committee on Rules and Calendar.

On motion by Senator Jennings, by two-thirds vote HB 170 (1985 Regular Session) together with the Governor's objections thereto was withdrawn from the Committee on Rules and Calendar and taken up.

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

HB 170 (1985 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Fox	Kirkpatrick	Scott
Beard	Frank	Kiser	Stuart
Castor	Girardeau	Malchon	Thomas
Childers, D.	Gordon	Mann	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Crawford	Grizzle	Myers	Weinstein
Crenshaw	Jenne	Neal	
Deratany	Jennings	Peterson	
Dunn	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten, Hill

First Reading

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended House Bills 1 and 635 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative R. C. Johnson and others—

HB 1—A bill to be entitled An act relating to weapons and firearms; amending s. 790.06, F.S.; authorizing the Secretary of State rather than the counties to issue licenses for the carrying of concealed weapons or firearms; providing criteria for the issuance of a license; providing for a standard application form; providing procedures for the issuance of a license; providing for license revocation in certain circumstances; providing for limitation of the license in certain circumstances; providing grandfather provisions; providing for disposition of fees collected; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Governmental Operations.

By Representative Lawson—

HB 635—A bill to be entitled An act relating to the Florida Security for Public Deposits Act; amending s. 280.02, F.S.; revising the definition of "required collateral" and defining "treasurer"; amending s. 280.04, F.S.; including a provision relating to market value of required collateral; revising the requirements relating to total public deposits which may be held by a qualified public depository and providing for required collateral; amending s. 280.043, F.S., relating to collateral required if contingent liability is prohibited or inadequate, to revise percentages relating to market value of eligible collateral; amending ss. 280.09 and 280.11, F.S.; removing a requirement that administrative penalties be deposited in the Public Deposit Security Trust Fund and providing for deposit into general revenue; providing for assessment against a depository that withdraws from the program of an administrative penalty equal to any early withdrawal penalties to reimburse depositors for losses; providing for investment of moneys in the trust fund; amending s. 280.16, F.S.; requiring certain public depositories to submit certain quarterly reports; providing an effective date.

(Substituted for SB 509 on the special order calendar this day.)

SPECIAL ORDER

CS for SB 586—A bill to be entitled An act relating to sewage disposal; amending s. 403.086, F.S.; providing that facilities for sanitary sewage disposal may not dispose of wastes into certain waters without advanced waste treatment; defining the term "advanced waste treatment"; requiring the Department of Environmental Regulation to establish waste load allocation effluent limitations; providing for two stormwater demonstration projects; providing an effective date.

—was read the second time by title.

Senators Neal and Grizzle offered the following amendments which were moved by Senator Grizzle and adopted:

Amendment 1—On page 3, strike line 1 and insert:

(5) *The Department of Environmental Regulation shall establish appropriate waste load allocation effluent limitations for affected permittees. The requirements of subsection (4) of s. 403.086 shall apply to existing permittees beginning October 1, 1989, and shall apply until the department establishes such allocations.*

Section 2. The Department of Environmental Regulation shall conduct at least two stormwater demonstration projects, one of which shall determine the extent of impacts from existing nonpoint urban and rural runoff and one of which shall evaluate methodologies for collections, retention, treatment, or reuse of urban or rural stormwater. The purpose of both projects shall be to evaluate the impact of uncontrolled nonpoint source discharge and to improve the technology of proposed solutions. In evaluating proposals submitted, the department shall give special consideration to projects involving discharge into Tampa Bay or its tributaries. The implementation of this section is conditional on funds being appropriated or made available under federal grants for these purposes.

Section 3. This act shall take effect January 1, 1987.

Amendment 2—In title, on page 1, line 7, after "treatment;" insert: requiring the Department of Environmental Regulation to establish waste load allocation effluent limitations; providing for two stormwater demonstration projects;

On motion by Senator Grizzle, by two-thirds vote CS for SB 586 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	Frank	Kirkpatrick	Plummer
Beard	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Mann	Thurman
Crawford	Hair	Margolis	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Neal	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Gersten

On motions by Senator Thurman, by two-thirds vote CS for CS for HB 4 was withdrawn from the Committees on Economic, Community and Consumer Affairs, Agriculture and Appropriations.

On motion by Senator Thurman—

CS for CS for HB 4—A bill to be entitled An act relating to auctions; providing legislative intent; providing definitions; providing certain exemptions from regulation; creating the Florida Board of Auctioneers; providing membership requirements; providing duties and powers; providing immunity for certain acts of the board; establishing licensure requirements, qualifications, and procedures for auctioneers, apprentices, and auction businesses; requiring certain bonds; restricting certain local fees and licenses; providing reciprocity for certain nonresidents; establishing requirements for conducting certain auctions; requiring written agreements; providing exemptions from such agreement requirement; requiring the maintenance of certain records; requiring license display; establishing advertising requirements; prohibiting certain acts and providing for license suspension or revocation; providing for administrative fines; providing for injunction; providing an examination exception for certain persons; providing for compensation and reimbursement to board members; providing a penalty; repealing ss. 839.01, 839.02, and 839.021, F.S., relating to offenses by auctioneers; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 16 and read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for CS for HB 4 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Girardeau	Kirkpatrick	Peterson
Castor	Gordon	Kiser	Plummer
Childers, D.	Grant	Langley	Scott
Childers, W. D.	Grizzle	Malchon	Stuart
Crenshaw	Hair	Mann	Thomas
Deratany	Hill	Margolis	Thurman
Fox	Jennings	Myers	Vogt
Frank	Johnson	Neal	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

CS for SB 16 was laid on the table.

CS for SB 192—A bill to be entitled An act relating to condominiums and cooperatives; creating ss. 718.1035, 719.1035, F.S.; providing that the use of a power of attorney that affects any aspect of the operation of a condominium or cooperative shall be subject to certain requirements; amending s. 718.111, F.S.; authorizing the condominium association to take part in actions in eminent domain; revising language with respect to official records; amending s. 718.112, F.S.; revising language with respect to bylaws, the annual budget of common expenses of a condominium with respect to reserve accounts for deferred maintenance, assessments, transfer fees, fidelity bonds, and arbitration; authorizing the acceleration of assessments under certain circumstances; providing for fidelity bonds; amending ss. 718.116, F.S.; providing for priority of liens; amending s. 718.3025, F.S., relating to operation, maintenance, or management; amending s. 718.501, F.S., relating to powers and duties of the division; amending s. 718.608, F.S., relating to notice of conversion and time of delivery; amending s. 719.103, F.S., relating to definitions; amending s. 719.104, F.S.; providing for required official records with respect to cooperative associations; amending s. 719.105, F.S., relating to cooperative parcels; amending s. 719.106, F.S.; revising language with respect to the annual budget of common expenses of a cooperative with respect to reserve accounts for deferred maintenance; providing for priority of liens; amending s. 719.107, F.S., relating to common expenses; amending s. 719.108, F.S., relating to rent and assessment; amending s. 719.109, F.S., relating to rights of owners to peaceably assemble; amending s. 119.110, F.S., relating to limitation on actions by association; amending s. 719.111, F.S., relating to attorney's fees; amending s. 719.112, F.S., relating to unconscionable leases; creating s. 719.114, F.S., relating to separate taxation of parcels; creating s. 719.1255, F.S., relating to arbitration of dis-

putes; amending s. 719.202, F.S., relating to sales or reservation deposits; amending s. 719.203, F.S., relating to warranties; amending s. 719.301, F.S., relating to the transfer of association control; amending s. 719.302, F.S., relating to association agreements; amending s. 719.303, F.S., relating to owner obligations; amending s. 719.304, F.S., relating to the association's right to amend cooperative documents; amending s. 719.401, F.S., relating to leaseholds; amending s. 719.403, F.S., relating to phase cooperative; amending s. 719.501, relating to powers and duties of the division; amending s. 719.502, F.S., relating to filing prior to sale or lease; amending s. 719.503, F.S., relating to disclosure prior to sale; amending s. 719.504, F.S., relating to prospectus; amending s. 719.506, F.S., relating to publication of false information; amending s. 719.606, F.S., relating to conversion to cooperatives; amending s. 719.608, F.S., relating to notice of intended conversion; amending s. 719.61, relating to notices; amending s. 719.612, F.S., relating to right of first refusal; amending s. 719.616, F.S., relating to disclosure of condition of building; amending s. 719.618, F.S., relating to converter reserve accounts; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1—On page 3, between lines 16 and 17, insert:

Section 1. Subsection (2) of section 514.0115, Florida Statutes, is amended to read:

514.0115 Exemptions from supervision or regulation.—

(2) Pools that serve serving no more than 32 condominium or cooperative units of associations whose recorded documents prohibit rental of the units or do not permit rental of the units for periods of less than 60 days are which are not operated as a public lodging establishment shall be exempt from supervision under this chapter after the issuance of the initial operating permit, except for water quality and safety. Inspection shall occur annually, or upon complaint of the owner.

Amendment 2—On page 91, line 2, after "1986" insert: except that this section and the amendments to s. 514.0115, Florida Statutes, contained in section 1, shall take effect upon becoming a law

Amendment 3—In title, on page 1, line 3, after the semicolon (;) insert: amending s. 514.0115, F.S.; exempting pools serving certain condominiums and cooperatives from supervision and regulation under ch. 514, F.S., except for water quality;

On motion by Senator Jenne, further consideration of CS for SB 192 as amended was deferred.

On motions by Senator W. D. Childers, by two-thirds vote HB 372 was withdrawn from the Committees on Finance, Taxation and Claims and Appropriations.

On motion by Senator W. D. Childers—

HB 372—A bill to be entitled An act relating to concurrent jurisdiction; providing that the United States Government and the Governor of the State of Florida or competent local authorities may enter into written agreements for the concurrent exercise of jurisdiction over lands within the State of Florida; providing an effective date.

—a companion measure, was substituted for CS for SB 336 and read the second time by title.

Senator W. D. Childers moved the following amendments which were adopted:

Amendment 1—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. (1) Whenever the United States Department of the Interior, National Park Service, shall desire to acquire concurrent jurisdiction to enforce criminal laws on any lands owned or controlled by the United States Department of the Interior, National Park Service, within this state and shall make application for that purpose, the Governor is authorized to cede to the United States Department of the Interior, National Park Service, such measure of jurisdiction, not exceeding that requested, as he may deem proper, over all or any part of such lands as to which a cession of the concurrent jurisdiction to enforce criminal laws is requested.

(2) Said application on behalf of the United States Department of the Interior, National Park Service, shall state in particular the measure of

jurisdiction desired and shall be accompanied by an accurate description of the lands over which such jurisdiction is desired and information as to which of such lands are then owned or controlled by the United States Department of the Interior, National Park Service.

(3) Said cession of jurisdiction shall become effective when it is accepted on behalf of the United States, which acceptance shall be indicated, in writing upon the instrument of cession, by an authorized official of the United States Department of the Interior, National Park Service, and by filing with the Secretary of State of the State of Florida.

Section 2. The state reserves jurisdiction, for itself and its political subdivisions, to enforce the laws on any lands for which concurrent jurisdiction has been ceded to the United States pursuant to this act. No person residing on such lands shall be deprived of any civil or political rights, including the right of suffrage, by reason of the cession of concurrent jurisdiction to the United States Department of the Interior, National Park Service.

Section 3. (1) Whenever the United States tenders to the state a relinquishment of all or part of the jurisdiction theretofore acquired by it over lands within this state, the Governor is authorized to accept on behalf of the state the jurisdiction so relinquished; provided, however, that the Governor shall not accept a relinquishment of all or part of such jurisdiction over an Indian tribe recognized by the United States without the consent of its federally recognized tribal governing body.

(2) The Governor shall indicate his acceptance of such relinquished jurisdiction by a writing addressed to the head of the appropriate department or agency of the United States, and such acceptance shall be effective when said writing is deposited in the United States mail.

Section 4. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike all of lines 1-8 and insert: A bill to be entitled An act relating to concurrent jurisdiction; providing that the United States Department of the Interior, National Park Service, and the Governor of the State of Florida may enter into written agreements for the exercise of concurrent jurisdiction over lands within the State of Florida; providing an effective date.

On motion by Senator W. D. Childers, by two-thirds vote HB 372 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gersten	Kirkpatrick	Peterson
Beard	Girardeau	Kiser	Plummer
Castor	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Mann	Thurman
Deratany	Hair	Margolis	Weinstein
Dunn	Hill	Meek	
Fox	Jennings	Myers	
Frank	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Crenshaw, Jenne

CS for SB 336 was laid on the table.

On motion by Senator W. D. Childers, the rules were waived and HB 372 was ordered immediately certified to the House.

SB 227—A bill to be entitled An act relating to higher education; creating s. 240.127, F.S.; establishing the college reach-out program; providing grants to strengthen the educational motivation of low-income or educationally disadvantaged students; requiring a report on program effectiveness; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Peterson and adopted:

Amendment 1—On page 3, line 23, after "age," insert: sex,

Senator Peterson moved the following amendments which were adopted:

Amendment 2—On page 1, line 25, after the period (.) insert: In addition to public community colleges and universities, independent Florida colleges and universities approved pursuant to Chapter 246 which participate in the federal TRIO programs may apply to the college reach-out program. If funded, such independent institutions may provide counseling, tutoring, and other support services to students during their first two years of college enrollment in addition to the other activities specified.

Amendment 3—In title, on page 1, line 7, insert: amending ss. 229.512, 240.311, 240.325, 240.349, 240.35, 240.353, 240.355, 240.359, 240.36, 240.361, and 240.377, F.S.; substituting the State Board of Community Colleges for the State Board of Education; amending s. 240.311, F.S.; requiring the State Board of Community Colleges to prescribe minimum standards for community college operations; amending ss. 240.319, 240.345, 240.359, 240.363, and 240.279, F.S.; adding reference to State Board of Community Colleges rules;

Amendment 4—In title, on page 1, line 6, after the semicolon (;) insert: providing for the participation of independent institutions;

On motions by Senator Peterson, the Senate reconsidered the vote by which Amendments 1, 2, 3 and 4 were adopted. By permission Senator Peterson withdrew the amendments.

On motion by Senator Peterson, by two-thirds vote SB 227 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Jennings	Plummer
Beard	Frank	Langley	Scott
Castor	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Gordon	Margolis	Thurman
Crawford	Grizzle	Meek	Vogt
Crenshaw	Hair	Myers	Weinstein
Deratany	Hill	Neal	
Dunn	Jenne	Peterson	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Senator Langley presiding

On motions by Senator Grant—

HB 635—A bill to be entitled An act relating to the Florida Security for Public Deposits Act; amending s. 280.02, F.S.; revising the definition of "required collateral" and defining "treasurer"; amending s. 280.04, F.S.; including a provision relating to market value of required collateral; revising the requirements relating to total public deposits which may be held by a qualified public depository and providing for required collateral; amending s. 280.043, F.S., relating to collateral required if contingent liability is prohibited or inadequate, to revise percentages relating to market value of eligible collateral; amending ss. 280.09 and 280.11, F.S.; removing a requirement that administrative penalties be deposited in the Public Deposit Security Trust Fund and providing for deposit into general revenue; providing for assessment against a depository that withdraws from the program of an administrative penalty equal to any early withdrawal penalties to reimburse depositors for losses; providing for investment of moneys in the trust fund; amending s. 280.16, F.S.; requiring certain public depositories to submit certain quarterly reports; providing an effective date.

—a companion measure, was substituted for SB 509 and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote HB 635 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Crenshaw	Gersten	Hill
Castor	Deratany	Girardeau	Jenne
Childers, D.	Dunn	Gordon	Jennings
Childers, W. D.	Fox	Grant	Johnson
Crawford	Frank	Hair	Kirkpatrick

Langley	Meek	Plummer	Thurman
Malchon	Myers	Scott	Vogt
Mann	Neal	Stuart	Weinstein
Margolis	Peterson	Thomas	

Nays—None

SB 509 was laid on the table.

CS for SB's 517, 407 and 540—A bill to be entitled An act relating to motor vehicle registration and drivers' licenses; amending ss. 318.14, 318.18, 320.0605, 320.07, 322.03, 322.15, F.S.; providing that operating a motor vehicle without a valid registration or a valid drivers' license constitutes a noncriminal infraction; providing exceptions; providing for dismissal of charges in certain cases; providing a fee; providing penalties; amending s. 320.27, F.S.; deleting the requirement that motor vehicle dealers' records be made available to all law enforcement officers for inspection; deleting the requirement that dealers carry uninsured motorist coverage; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Gordon and adopted:

Amendment 1—On page 7, between lines 6 and 7, insert:

Section 5. Paragraph (i) is added to subsection (1) of section 320.10, Florida Statutes, to read:

320.10 Exemptions.—

(1) The provisions of s. 320.08 do not apply to:

(i) *Any vehicle used by the various search and rescue units of the several counties for exclusive use as a search and rescue vehicle.*

(Renumber subsequent sections.)

Amendment 2—On page 9, between lines 12 and 13, insert:

Section 6. Subsection (7) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(7) CERTIFICATE OF TITLE REQUIRED.—

(a) For each used motor vehicle in the possession of a licensee and offered for sale by him, the licensee either shall have in his possession a duly assigned certificate of title from the owner in accordance with the provisions of chapter 319, from the time when the motor vehicle is delivered to him until it has been disposed of by him, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of chapter 319.

(b) In order to facilitate the chain of ownership of a motor vehicle, all licensees shall execute dealer reassignments of title. *When a transfer of title is made at a motor vehicle auction, the reassignment shall note the name and address of the auction, but the auction shall not thereby be deemed to be the owner, seller, transferor, or assignor of title. A motor vehicle auction shall be required to execute a dealer reassignment only when it is the actual owner of a vehicle being sold.*

(Renumber subsequent sections.)

Senator Margolis moved the following amendments which were adopted:

Amendment 3—On page 11, between lines 27 and 28, insert:

Section 8. Section 316.253, Florida Statutes, is created to read:

316.253 Vehicles used to sell ice cream and other confections; display of warnings required.—Any person who sells ice cream or other frozen confections at retail from a motor vehicle shall display on each side of such motor vehicle, in letters at least 3 inches high, a warning containing the words, "look out for children," "caution: children," or such similar words as are approved by the department.

(Renumber subsequent section.)

Amendment 4—In title, on page 1, line 15, after the semicolon (;) insert: creating s. 316.253, F.S.; requiring certain vehicles used for retail sale of certain goods to display warnings; providing penalties;

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Gordon and adopted:

Amendment 5—In title, on page 1, strike line 4 and insert: 318.18, 320.0605, 320.07, 320.10, 322.03, 322.15, F.S.; exempting search and rescue units from motor vehicle license taxes;

Amendment 6—In title, on page 1, line 14, after the semicolon (;) insert: requiring the name and address of motor vehicle auction on the reassignment of title form;

On motion by Senator Gordon, by two-thirds vote CS for SB's 517, 407 and 540 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Beard	Gersten	Kirkpatrick	Peterson
Childers, D.	Girardeau	Langley	Plummer
Childers, W. D.	Gordon	Malchon	Scott
Crenshaw	Grant	Mann	Stuart
Deratany	Grizzle	Margolis	Thomas
Dunn	Hill	Meek	Thurman
Fox	Jennings	Myers	Vogt
Frank	Johnson	Neal	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne

On motion by Senator Gordon, the rules were waived and CS for SB's 517, 407 and 540 after being engrossed was ordered immediately certified to the House.

The President presiding

CS for SB 1023—A bill to be entitled An act relating to transportation; amending s. 334.046, F.S.; requiring the Department of Transportation to submit with its proposed 5-year transportation plan a report containing certain analyses and comparisons; requiring the department to make an oral presentation to the transportation committees of the Senate and the House of Representatives; amending s. 339.135, F.S.; requiring the 5-year transportation plan to include reports on construction contract time and manpower; requiring the submission of the 5-year transportation plan prior to the start of each regular session of the Legislature; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote CS for SB 1023 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kirkpatrick	Peterson
Barron	Gersten	Kiser	Plummer
Beard	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crenshaw	Hill	Margolis	Vogt
Deratany	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	

Nays—None

SB 1119—A bill to be entitled An act relating to transportation-related construction contracts; amending s. 337.16, F.S.; providing that a contractor's application for a certificate of qualification shall be denied or his current certificate suspended if it is determined that he was delinquent on a contract; providing that for reasons other than delinquency in progress, the Department of Transportation for good cause may also deny a certificate of qualification; creating s. 337.175, F.S.; providing that the department shall include in its construction contracts a provision for retaining a percentage of the amount due the contractor for monthly progress payments; providing that the department may not accept securities for amounts retained on a construction contract; amending s. 337.18,

F.S.; increasing the amount charged as liquidated damages for certain contracts; providing for a penalty for failure to complete a project within the time stipulated in the contract; providing that any liquidated damages, penalty, and additional damages assessed in contracts containing incentive and disincentive provisions shall be paid when the contract time is exceeded; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendments which were moved by Senator Gordon and adopted:

Amendment 1—On page 5, line 4, after the period (.) insert: *Provided, however, those contractors who have completed department projects for a period of the three previous consecutive years without being declared delinquent shall be allowed to substitute securities in lieu of retainage.*

Amendment 2—On page 6, lines 29 and 30, strike “two times”

On motion by Senator Gordon, by two-thirds vote SB 1119 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jennings	Neal
Beard	Frank	Johnson	Peterson
Castor	Gersten	Kiser	Plummer
Childers, D.	Girardeau	Langley	Scott
Childers, W. D.	Gordon	Malchon	Stuart
Crawford	Grant	Mann	Thomas
Crenshaw	Grizzle	Margolis	Thurman
Deratany	Hair	Meek	Vogt
Dunn	Hill	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

CS for SB 1010—A bill to be entitled An act relating to construction contracting; amending ss. 489.103, 489.113, 489.115, 489.129, F.S.; creating s. 489.108, F.S.; providing exemptions from certification and registration requirements; providing rulemaking authority of the board; clarifying when a contractor is required to subcontract installation of roofing materials; specifying when subcontracting is required for swimming pool work; providing for applications under oath; providing that financial mismanagement, abandonment, and failure to perform legal obligations or violating a lawful order of the board or department are grounds for disciplinary action; providing procedures, penalties, and limitations; repealing s. 489.131(8), F.S., relating to local certificates or licenses for mechanical or plumbing work; providing an effective date.

—was read the second time by title.

Senator Frank moved the following amendment which was adopted:

Amendment 1—On page 3, line 28, strike “act as,”

Further consideration of CS for SB 1010 was deferred.

CS for CS for SB’s 465, 349, 592, 698, 699, 700, 701, 702, 956, 977 and 1120—A bill to be entitled An act relating to insurance and civil actions; providing findings and purpose; creating s. 624.45, F.S.; authorizing certain participation of financial institutions in reinsurance and in insurance exchanges; amending s. 626.988, F.S.; authorizing financial institutions to employ insurance agents and engage in insurance business; amending s. 626.9541, F.S.; changing restrictions upon insurance dealings involving increased premiums; creating s. 626.595, F.S.; requiring disclosure of insurance commissions; amending s. 626.973, F.S.; excluding certain property or casualty insurance from provisions relating to fictitious groups; creating s. 627.0612, F.S.; providing for administrative hearings; specifying grounds for setting aside a final order of the Department of Insurance; amending s. 627.062, F.S.; changing factors to be considered by the Department of Insurance in reviewing rates; providing for orders; providing that certain violations of provisions relating to unfair insurance trade practices violate rate provisions; creating s. 627.0625, F.S.; providing for risk management plans for commercial property insurance and commercial casualty insurance; requiring affected insurers to file information with the department; requiring insurers real-

izing an excessive profit to place the profits in a special fund and providing the use of such funds; amending s. 627.072, F.S.; limiting certain rate-making provisions to workers’ compensation and employer’s liability insurance; amending s. 627.331, F.S.; conforming rate-reporting provisions to the act; amending s. 627.351, F.S.; authorizing the department to adopt a joint underwriting plan for property and casualty insurance risk apportionment; creating a Risk Underwriting Committee; amending s. 627.356, F.S.; expanding provisions relating to professional liability self-insurance to cover certain professions in addition to law; providing for joint and several liability of members to the self-insurance trust fund; providing for review of rates; amending s. 627.357, F.S.; expanding the types of health care providers eligible to establish a medical malpractice risk management trust fund; expanding the entities which may be insured by the fund; providing for joint and several liability of members to the fund; providing for review of rates; creating s. 627.4133, F.S.; requiring certain insurers to notify insureds of cancellations, nonrenewals, or renewal premiums; creating s. 627.4205, F.S.; requiring insurers to issue coverage identification numbers to insureds; amending s. 627.421, F.S.; specifying a period by which insurance policies shall be delivered; creating s. 624.4365, F.S.; requiring disclosure with respect to self-insurance plans, funds, or programs; amending s. 629.50, F.S.; changing restrictions on formation of limited reciprocal insurers; amending s. 629.501, F.S.; conforming provisions relating to limited reciprocal insurers; amending s. 629.511, F.S.; changing restrictions of use of agents by limited reciprocal insurers; amending s. 629.513, F.S.; prohibiting excessive rates by limited reciprocal insurers; amending s. 629.517, F.S.; changing conditions of suspension or revocation of the certificate of authority of a limited reciprocal insurer; amending s. 629.519, F.S.; conforming provisions relating to conversion of limited reciprocal insurers; providing an appropriation; creating ss. 624.460, 624.462, 624.464, 624.466, 624.468, 624.470, 624.472, 624.473, 624.474, 624.476, 624.478, 624.480, 624.482, 624.484, 624.486, 624.488, F.S.; amending s. 517.051, F.S.; creating the Commercial Self-Insurance Fund Act; authorizing certain entities to form commercial self-insurance funds; requiring certificate of authority; specifying conditions for maintenance of certificate of authority; requiring annual reports; specifying liability of members; requiring approval of department for dividends; providing for assessments of members; providing for impaired funds; providing for use of agents; requiring approval of forms; prohibiting inadequate or unfairly discriminatory rates; providing for designation of registered agent; providing for examination; specifying applicability of related laws; providing that certain insurance securities are exempt from registration requirements; providing an appropriation; providing findings and purpose; limiting joint and several liability to economic damages; providing for apportionment of damages; providing for recovery of noneconomic damages; limiting amount of noneconomic damages; requiring leave of court to plead punitive damages; providing for distribution of punitive damages; providing for offer of judgment and demand for judgment in civil actions; providing for periodic payments of future damages; providing for itemized verdicts; providing for notice of collateral sources of indemnity; providing for a plan for mediation and arbitration of civil actions; creating the Academic Task Force for Review of the Insurance and Tort Systems; providing for membership, compensation, powers, and duties; providing confidentiality; providing for subpoenas; providing for reports; requiring a reduction of insurance rates; requiring certain reports; providing severability; providing an effective date.

—was read the second time by title.

Senators Jenne, Crawford, Hair, Kirkpatrick and Langley offered the following amendment which was moved by Senator Jenne:

Amendment 1—On pages 5-79, strike everything after the enacting clause and insert:

Section 1. The Legislature finds and declares that a solution to the current crisis in liability insurance, and a means of preventing the recurrence of such crisis, demands a comprehensive combination of reforms to both the tort system and the insurance regulatory system. It is the purpose of this act to ensure the widest possible availability of liability insurance at reasonable rates, to ensure a stable market for liability insurers, to ensure that injured persons recover reasonable damages, and to encourage the settlement of civil actions prior to trial.

Section 2. Section 624.45, Florida Statutes, is created to read:

624.45 Participation of financial institutions in reinsurance and in insurance exchanges.—Subject to applicable laws relating to financial institutions and to any other applicable provision of the Florida Insurance Code, any financial institution or aggregation of such institutions may:

(1) Own or control, directly or indirectly, any insurer which is authorized or approved by the department, which insurer transacts only reinsurance in this state and which actively engages in reinsuring risks located in this state.

(2) Participate, directly or indirectly, as an underwriting member or as an investor in an underwriting member of any insurance exchange authorized in accordance with s. 629.401, which underwriting member transacts only aggregate or specific excess insurance over underlying self-insurance coverage for self-insurance organizations authorized under the Florida Insurance Code, for multiple employer welfare arrangements or for workers' compensation self-insurance trust, in addition to any reinsurance the underwriting member may transact.

Section 3. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) Illegal dealings in premiums; excess or reduced charges for insurance.—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the department, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(4), in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer. *This subparagraph shall not be construed to prohibit collection of a premium for a universal life or a variable or indeterminate value insurance policy made in accordance with the terms of the contract.*

3. Imposing or requesting an additional premium for automobile liability insurance, or refusing to renew the policy, solely because the insured was involved in an automobile accident, unless the applicant's or insured's insurer has incurred a loss under the insured's policy, other than with respect to uninsured motorist coverage, arising out of the accident, or unless the insurer's file contains sufficient proof of fault, or other criteria, to justify the additional charge or refusal to renew. An insurer which imposes and collects such a surcharge shall, in conjunction with the notice of premium due, notify the named insured that he is entitled to reimbursement of such amount under the conditions listed below and will subsequently reimburse him, if the named insured demonstrates that the operator involved in the accident was:

- a. Lawfully parked.
- b. Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person.
- c. Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident.
- d. Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident.
- e. Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation.
- f. Finally adjudicated not to be liable by a court of competent jurisdiction.

g. In receipt of a traffic citation which was dismissed or nolle prossed.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle liability insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:

a. A second or subsequent infraction committed within an 18-month period.

b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as such handicap or physical disability does not substantially impair such person's mechanically assisted driving ability.

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium.

8. *No insurer may issue a nonrenewal notice on any insurance contract or coverage, or require execution of a consent to rate endorsement, for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium without meeting any applicable notice requirements.*

9. No insurer shall, with respect to premiums charged for automobile insurance, unfairly discriminate solely on the basis of age, sex, marital status, or scholastic achievement.

10. ~~Imposing or requesting an additional premium for automobile comprehensive or uninsured motorist coverage solely because the insured was involved in an automobile accident or was convicted of a moving traffic violation.~~

11. *No insurer shall cancel or issue a nonrenewal notice on any insurance policy or contract without complying with any applicable cancellation or nonrenewal provision required under the Florida Insurance Code.*

~~This paragraph does not apply to life insurance or health insurance.~~

Section 4. Section 626.595, Florida Statutes, is created to read:

626.595 Disclosure of commission.—Any person effectuating a contract of insurance, except a contract for health or life insurance, shall disclose the percentage of the premium, or the dollar amount, of any commission to be paid to him as the result of the transaction. The disclosure shall be made to the customer prior to the time that the customer has tendered any money for the insurance. The disclosure shall be on a form prescribed by the department. It shall be signed by the customer prior to the time the application is signed.

Section 5. Section 626.973, Florida Statutes, is amended to read:

626.973 Fictitious groups.—

(1) No insurer or any person on behalf of any insurer shall make, offer to make, or permit any preference or distinction in property, marine, casualty, or surety insurance as to form of policy, certificate, premium, rate, benefits, or conditions of insurance, based upon membership, non-membership, employment, or of any person or persons by or in any particular group, association, corporation, or organization, and shall not make the foregoing preference or distinction available in any event based upon any "fictitious grouping" of persons as defined in this code, such "fictitious grouping" being hereby defined and declared to be any grouping by way of membership, nonmembership, license, franchise, employment, contract, agreement, or any other method or means.

(2) The restrictions and limitations of this section do not extend to life insurance, health insurance, and medical malpractice insurance.

(3) *The restrictions and limitations of this section do not extend to property or casualty insurance issued in this state on commercial risks, provided that:*

(a) *The policy requires active participation in a plan of risk management which has established measures and procedures to minimize both the frequency and severity of losses;*

(b) *The policy passes on the benefits of reduced losses to plan participants; and*

(c) *Rates are actuarially measurable and credible and sufficiently related to actual and expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against.*

Section 6. Section 627.0612, Florida Statutes, is created to read:

627.0612 Administrative proceedings in rating determinations.—In any proceeding to determine whether rates, rating plans, or other matters governed by this part comply with the law, the appellate court shall set aside a final order of the department if the department has not complied with s. 120.57(1)(b)9. by substituting its findings of fact for findings of a hearing officer which were supported by competent substantial evidence.

Section 7. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance, ~~other than workers' compensation, employer's liability insurance, and motor vehicle insurance:~~

(a) *Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the department as soon as practicable following their effective date, but no later than 30 days after that date.*

(b) *Upon receiving a rate filing, the department shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the department shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:*

1. *Past and prospective loss experience within and without this state.*

2. *Past and prospective expenses.*

3. *The degree of competition among insurers for the risk insured.*

4. *Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The department may promulgate rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for underwriting profit and investment income which produce a reasonable rate of return. The profit and contingency factor as specified in the filing shall be utilized in computing excess profits in conjunction with s. 627.0625.*

5. *The reasonableness of the judgment reflected in the filing.*

6. *Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.*

7. *The adequacy of loss reserves.*

8. *The cost of reinsurance.*

9. *Trend factors, including trends in actual losses per insured unit for the insurer making the filing.*

10. *Conflagration and catastrophe hazards, if applicable.*

11. *A reasonable margin for underwriting profit and contingencies.*

12. *Other relevant factors which impact upon the frequency or severity of claims or upon expenses.*

(c) *In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.*

(d) *In addition to the rate standards provided in paragraph (b), a rate may be found by the department to be excessive, inadequate, or unfairly discriminatory based upon the following standards:*

1. *Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.*

2. *Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.*

3. *Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.*

4. *One rate shall be deemed unfairly discriminatory in relation to another in the same class if it fails to clearly and equitably reflect the difference in expected losses and expenses including participation in risk management programs adopted pursuant to s. 627.0625.*

5. *A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.*

6. *A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.*

(e) *In reviewing a rate filing, the department may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.*

(f) *The department may at any time review a rate, rating schedule, rating manual, or rate change, the pertinent records of the insurer, and market conditions. If the department finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the department shall initiate proceedings to disapprove the rate and shall so notify the insurer. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the department all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the department notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the department withdraws the notification, the insurer shall not alter the rate except to conform with the department's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The department may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.*

(g) *In the event the department finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the department shall issue an order of disapproval specifying that a new rate or rate schedule be filed by the insurer which responds to the findings of the department. The department shall further order that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the department finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the department in*

response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and motor vehicle insurance.

(a) ~~No rate shall be held to be excessive unless:~~

1. ~~Such rate is unreasonably high for the insurance provided; and~~

2. ~~A reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable. The department may promulgate rules utilizing generally accepted actuarial and economic principles to describe the factors that will be utilized in determining when price competition and other elements of competition are sufficient to assure that rates are not excessive in relation to the benefits provided.~~

(b) ~~No rate shall be held to be inadequate unless:~~

1. ~~The rate is unreasonably low for the insurance provided, and the continued use of the rate endangers the solvency of the insurer using the same; or~~

2. ~~The rate is unreasonably low for the insurance provided, and the use of the rate by the insurer using the same has, or if continued will have, the effect of destroying competition or of creating a monopoly.~~

(c) ~~A rate shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when such replenishment is attributable to investment losses.~~

(d) ~~This subsection does not apply to motor vehicle insurance as defined in s. 627.041.~~

(3) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the department and which have been submitted to the insurer for individual rating, the insurer is required to file rates with the department for each such risk as soon as practicable following the effective date of the policy but in no event later than 90 days thereafter.

(4)(3) Nothing contained in this section or elsewhere in this part shall be construed to repeal or modify the provisions of ss. 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 626.9611, 626.9621, 626.9631, 626.9641, 626.9701, 626.9702, and 626.973, relating to unfair insurance trade practices; and any rate, rating classification, rating plan or schedule, or variation thereof established in violation of said sections shall, in addition to the consequences stated in said sections or elsewhere, be deemed a violation of this section.

Section 8. Section 627.0625, Florida Statutes, is created to read:

627.0625 Supplemental funding for risk management plans through excessive profits.—

(1) For the purposes of this section:

(a) "Commercial property insurance" means insurance as defined in s. 624.604, but limited to coverage of commercial risks.

(b) "Commercial casualty insurance" means insurance as defined in s. 624.605, other than workers' compensation and employer's liability insurance, but limited to coverage of commercial risks.

(2) This section shall apply only to commercial property insurance and to commercial casualty insurance as those terms are defined in subsection (1), or any combination thereof.

(3) Each insurer or insurer group offering commercial casualty insurance or commercial property insurance covering risks located in this state shall develop and make available to insureds guidelines for risk management plans. Policyholders complying with the guidelines for a risk management plan shall be eligible for distributions from the risk management incentive fund as provided in subsection (11). The risk management program shall include the following:

(a) Safety measures, including, as applicable, the following areas:

1. Pollution and environmental hazards;
2. Disease hazards;

3. Accidental occurrences;
4. Fire hazards and fire prevention and detection;
5. Liability for acts from the course of business;
6. Slip and fall hazards;
7. Product injury; and
8. Hazards unique to a particular class or category of insureds.

(b) Training to insureds in safety management techniques.

(c) Safety management counseling services.

(4) Each insurer group shall file with the department prior to July 1 of each year, on a form prescribed by the department, the following data specific to commercial casualty insurance and commercial property insurance:

(a) Calendar-year earned premium.

(b) Accident-year incurred losses and loss-adjustment expenses.

(c) The administrative and selling expenses incurred in this state or allocated to this state for the calendar year.

(d) Policyholder dividends applicable to the calendar year.

The data filed for the group shall be a consolidation of the data of the individual insurers of the group.

(5)(a) Excessive profit has been realized if underwriting gain is greater than the anticipated underwriting profit plus 4 percent of earned premiums for the 4 most recent calendar years.

(b) As used in this section with respect to any 4-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business. Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

(6) Each insurer group shall also file a schedule of Florida loss and loss-adjustment experience for each of the 4 most recent accident years. The incurred losses and loss-adjustment expenses shall be valued as of December 31 of the accident year, developed to an ultimate basis, and at three 12-month intervals thereafter, each developed to an ultimate basis, so that a total of four evaluations will be provided for each accident year. The first year to be so reported shall be accident year 1987, so that the reporting of 4 accident years will not take place until accident years 1988, 1989, and 1990 have become available. For medical malpractice insurance, the first year to be so reported shall be accident year 1990, so that the reporting of 4 accident years for full inclusion of medical malpractice experience in commercial casualty insurance will not take place until accident years 1991, 1992, and 1993 become available. Accordingly, no medical malpractice insured shall be eligible for refunds or credits until the reporting period ending with calendar/accident year 1995. For reporting purposes unrelated to determining excessive profits, the loss and loss-adjustment experience of each accident year shall continue to be reported until each accident year has been reported at eight stages of development.

(7) Each insurer group's underwriting gain or loss for each calendar-accident year shall be computed as follows: The sum of the accident-year incurred losses and loss-adjustment expenses as of December 31 of the year, developed to an ultimate basis, plus the administrative and selling expenses incurred in the calendar year, plus policyholder dividends applicable to the calendar year, shall be subtracted from the calendar-year earned premium to determine the underwriting gain or loss.

(8) For the 4 most recent calendar-accident years, the underwriting gain or loss shall be compared to the anticipated underwriting profit.

(9) Any insurer realizing an excessive profit shall place such profits in an interest-bearing fund to be called the "risk management incentive fund," hereinafter referred to as the "fund." The fund may be maintained on an insurer group-wide basis or on an individual insurer basis.

(10) If the insurer or insurer group has realized an excessive profit, the department shall order that the excessive amounts be placed in the fund while affording the insurer group an opportunity for hearing and otherwise complying with the requirements of chapter 120. Such excessive amounts shall be placed in the fund in all instances unless the insurer group affirmatively demonstrates to the department that the placement of the excessive amounts in the fund will render a member of the insurer group impaired or insolvent under the provisions of the Florida Insurance Code.

(11)(a) All money placed in the fund and interest thereon shall be distributed to reimburse each eligible policyholder, in the form of a credit or refund, for the first \$1,000 expended in a risk management program, to the policyholders of the insurer or insurer group having a policy in force on December 31 of the final compilation year of the reporting period, having complied with the guidelines for the applicable risk management plan, and having experienced no increase in losses for a period of 1 year or the period the plan was in effect, whichever is longer. If the amount of money available is insufficient to reimburse each policyholder for the entire \$1,000, then the money shall be distributed to each eligible policyholder on a proportional basis. Compliance with such guidelines may include maintenance by the insured of loss experience, measured as a loss ratio, which does not exceed, on average, for the lesser of the review period or the total continuous period of coverage with the insurer, the appropriate permissible loss ratio utilized in the rate filings in effect during the reporting period provided that such maintenance requirements are applied equally to all insured risks which otherwise meet the guidelines. In no event shall the funds distributed to a policyholder for a reporting period exceed the policyholder's total premium for the reporting period. Any money remaining in the fund which exceeds the amounts necessary for distribution to policyholders maintaining any loss ratio guidelines shall be distributed to policyholders who otherwise comply with the guidelines.

(b) If money is still available after distribution has been made in accordance with paragraph (a), it shall be distributed to all eligible policyholders pro rata on the basis of earned premium.

(12)(a) With respect to this section, data in required reports to the department may be rounded to the nearest dollar.

(b) Rounding, if elected by the insurer, shall be applied consistently.

(13)(a) Distribution of money shall be completed in one of the following ways:

1. Credits shall be applied to policy renewal premium notices which are forwarded to insureds more than 60 calendar days after entry of a final order indicating that excessive profits have been realized.

2. If an insured to whom a credit is applicable thereafter cancels or fails to renew his policy or otherwise allows his policy to terminate prior to receiving the credit, the insurer group shall make a cash refund in the amount of the credit not later than 60 days after termination of such coverage. In addition, a cash refund shall be made in the event the renewal premium is less than the amount available for distribution under subsection (11).

(b) Upon completion of the renewal credits or refund payments, the insurer group shall immediately certify to the department that the credits or refunds have been made.

(14) Any renewal credit or refund made pursuant to this section shall be treated as a policyholder dividend applicable to the final compilation year of the applicable review period, for purposes of reporting under this section for subsequent years.

(15) This section applies only to policies written or renewed on or after July 1, 1986.

Section 9. Subsections (1), (2), and (3) of section 627.072, Florida Statutes, are amended to read:

627.072 Making and use of rates.—

~~(1)(a) As to workers' compensation and employer's liability insurance all rates which are subject to this part, other than motor vehicle insurance, the following factors shall be used in the determination and fixing of rates:~~

~~(a)1. The past loss experience and prospective loss experience within and outside this state;~~

~~(b)2. The conflagration and catastrophe hazards;~~

~~(c)3. A reasonable margin for underwriting profit and contingencies;~~

~~(d)4. Dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;~~

~~(e)5. Investment income on unearned premium reserves and loss reserves;~~

~~(f)6. Past expenses and prospective expenses, both those countrywide and those specifically applicable to this state; and~~

~~(g)7. All other relevant factors, including judgment factors, within and outside this state.~~

~~(b) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.~~

(2) As to all rates which are subject to this part, the systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(3) As to all rates which are subject to this part, risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.

Section 10. Subsection (4) of section 627.331, Florida Statutes, is amended to read:

627.331 Recording and reporting of loss, expense, and claims experience; rating information.—

~~(4)(a) The department shall require insurers and rating organizations to furnish it with copies of their rates, rating schedules, and rating manuals which are in effect, and copies of any changes thereto, as soon as practicable following their effective dates, but in no event later than 30 days thereafter. Underwriting rules not contained in rating manuals shall be filed for private passenger automobile insurance and homeowners' insurance.~~

~~(b) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the department and which have been submitted to the insurer for individual rating, the insurer is required to file rates with the department for each such risk as soon as practicable following the effective date of the policy but in no event later than 90 days thereafter.~~

(b)(e) The submission of rates, rating schedules, and rating manuals to the department by a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this subsection for any insurer maintaining membership or subscribership in such organization, to the extent that the insurer uses the rates, rating schedules, and rating manuals of such organization. All such information shall be available for public inspection, upon receipt by the department, during usual business hours.

~~(c)(d) The filing requirements of this subsection do not apply to commercial inland marine risks.~~

Section 11. Subsection (5) is added to section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(5) **PROPERTY AND CASUALTY INSURANCE RISK APPORTIONMENT.**—If the department determines, after consultation with the insurers authorized in this state to write property insurance as defined in s. 624.604, or casualty insurance as defined in s. 624.605, that any class, line, or type of coverage of property or casualty insurance is not available at adequate levels in this state or in a particular geographic area, the department shall implement by order a joint under-

writing plan to equitably apportion among such insurers the underwriting of property insurance or casualty insurance, except for the types of insurance that are included within property insurance or casualty insurance for which an equitable apportionment plan, assigned risk plan, or joint underwriting plan is authorized under s. 627.311 or subsections (1), (2), (3), or (4) of this section to persons with risks eligible under subparagraph (a)1. and who are in good faith entitled to, but are unable to, obtain such property or casualty insurance coverage, including excess coverage, through the voluntary market. For purposes of this section, an adequate level of coverage means that coverage which is required by state law or by responsible or prudent business practices. The department may designate one or more participating insurers who agree to provide policyholder and claims service, including the issuance of policies, on behalf of the participating insurers.

(a) The plan shall provide:

1. A means of establishing eligibility of a risk for obtaining insurance through the plan which provides:

a. A risk shall be eligible for such property insurance or casualty insurance as is required by Florida law if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market.

b. A commercial risk not eligible under sub-subparagraph a. shall be eligible for property or casualty insurance if:

(I) The insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market;

(II) Failure to secure the insurance would impair the ability of the entity to conduct its affairs; and

(III) The risk is not determined by the Risk Underwriting Committee to be uninsurable.

c. In the event the Federal Government terminates the Federal Crime Insurance Program established under Title 44, code of Federal Regulations, ss. 80-83, Florida commercial risks previously insured under the federal program shall be eligible under the plan.

2. A means for the equitable apportionment of profits or losses and expenses among participating insurers.

3. Rules for the classification of risks and rates which reflect the past and prospective loss experience.

4. A rating plan which reasonably reflects the prior claims experience of the insureds.

5. Reasonable limits to available amounts of insurance. Such limits may not be less than the amounts of insurance required of eligible risks by Florida law.

6. Risk management requirements for insurance where such requirements are reasonable and are expected to reduce losses.

7. Deductibles as may be necessary to meet the needs of insureds.

8. That the joint underwriting association shall operate subject to the supervision and approval of a board of governors consisting of 11 individuals, including 1 who shall be elected as chairman. Six members of the board shall be appointed by the Insurance Commissioner. Two of the commissioner's appointees shall be chosen from the insurance industry. Any board member appointed by the Insurance Commissioner may be removed and replaced by him at any time without cause. Five members of the board shall be appointed by the participating insurers, two of whom shall be from the insurance agents' associations. All board members, including the chairman, shall be appointed to serve for 2-year terms beginning annually on a date designated by the plan.

(b) Rates used by the joint underwriting association shall be actuarially sound. To the extent applicable, the rate standards set forth in s. 627.062 shall be considered by the department in establishing rates to be used by the joint underwriting plan.

(c) Any deficit shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer written during the preceding calendar year bears to the aggregate net direct premium written for the lines of insurance included in the plan by all members of the plan. In the event an underwriting deficit exists for any policy year the plan is in effect, any surplus which has accrued from

previous years and is not projected within reasonable actuarial certainty to be needed for payment of claims in the year the surplus arose, shall be used to offset the deficit to the extent available. Any funds or entitlements that the state may be eligible to receive by virtue of the Federal Government's termination of the Federal Crime Insurance Program may be used under the plan to offset any subsequent underwriting deficits that may occur from risks previously insured with the Federal Crime Insurance Program.

(d) Upon adoption of the plan, all insurers authorized in this state to underwrite property or casualty insurance shall participate in the plan.

(e) A Risk Underwriting Committee of the joint underwriting association composed of three members experienced in evaluating insurance risks is created to review risks rejected by the voluntary market for which application is made for insurance through the joint underwriting plan. The committee shall consist of two members selected by the insurers participating in the joint underwriting association and a member named by the Insurance Commissioner. The Risk Underwriting Committee shall appoint advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the joint underwriting plan. The plan approved by the department shall establish criteria and procedures for use by the Risk Underwriting Committee for determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

1. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

2. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance and the provisions of chapter 120 shall not apply.

Section 12. Section 627.356, Florida Statutes, is amended to read:

627.356 Professional liability ~~malpractice~~ self-insurance.—

(1) A group or association of individuals ~~attorneys~~ licensed to ~~practice law~~ in this state as members of the same profession, composed of any number of members, is authorized to self-insure against claims of professional liability ~~malpractice~~, upon compliance by the group or association with the following conditions:

(a) Establishment of a Professional Liability ~~Malpractice~~ Risk Management Trust Fund to provide coverage against professional ~~malpractice~~ liability.

(b) Employment of professional consultants for loss prevention and claims management coordination under a risk management program.

(c) Restriction of the membership of such group or association to one of the following professions:

1. Attorneys licensed to practice law in this state.

2. Certified public accountants licensed under chapter 473.

3. Registered architects licensed under chapter 481.

4. Professional engineers licensed under chapter 471.

5. Veterinarians licensed under chapter 474.

6. Land surveyors registered or licensed to engage in the practice of land surveying under ss. 472.001-472.039.

Any such group or association shall be subject to regulation and investigation by the department. The group or association shall be subject to such rules as the department adopts, and shall also be subject to part VIII of chapter 626, relating to trade practices and frauds.

(2) The trust fund is authorized to purchase professional liability ~~malpractice~~ insurance up to determined limits, specific excess insurance, and aggregate excess insurance as necessary to provide the insurance coverages authorized by this section, consistent with the market availability. The trust fund is further authorized to purchase such risk management services as may be required and pay claims as may arise under any deductible provisions.

(3) The department shall adopt rules to implement the provisions of this section. Such rules shall guarantee the maintenance of a sufficient reserve in the event of the dissolution of any trust fund authorized hereunder so as to cover contingent liabilities. *Such rules shall also require members of the self-insurance trust fund to be jointly and severally liable for all losses incurred by the trust fund during the period of time the member participated in the trust fund.*

(4) *The expense factors associated with rates utilized in a professional liability self-insurance trust shall be filed with the department at least 30 days prior to use and shall not be utilized until approved by the department. The department shall disapprove the rates unless the filed expense factors associated therewith are justified and reasonable for the benefits and services provided.*

Section 13. Section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

(1) *DEFINITIONS.—The following definitions apply in the interpretation and enforcement of this section:*

(a) *The term "fund" means a group or association of health care providers, as defined in paragraph (b), authorized to self-insure.*

(b) *The term "health care provider" means any:*

1. *Hospital licensed under chapter 395.*
2. *Physician licensed, or physician's assistant certified, under chapter 458.*
3. *Osteopath licensed under chapter 459.*
4. *Podiatrist licensed under chapter 461.*
5. *Health maintenance organization certificated under part II of chapter 641.*
6. *Ambulatory surgical center licensed under chapter 395.*
7. *Chiropractor licensed under chapter 460.*
8. *Psychologist licensed under chapter 490.*
9. *Optometrist licensed under chapter 463.*
10. *Dentist licensed under chapter 466.*
11. *Pharmacist licensed under chapter 465.*
12. *"Registered nurses, "licensed practical nurses," and "advanced registered nurse practitioners" licensed or registered under the provisions of chapter 464.*
13. *"Other medical facility" as defined in paragraph (c).*
14. *Professional association, partnership, corporation, joint venture, or other association by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.*

(c) *The term "other medical facility" means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing nonsurgical human medical treatment and in which the patient is admitted to and discharged from such facility within the same working day, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, or an office maintained by a physician or dentist for the practice of medicine, shall not be construed to be an other medical facility.*

(d) *The term "hospital subsidiary corporation" means any corporation over which a hospital or the hospital's parent corporation exercises financial or operational control and which provides health care services to the hospital or the hospital parent corporation or another hospital subsidiary corporation.*

(e) *The term "hospital parent corporation" means any corporation which has financial or operational control over a hospital and which provides health care services to the hospital or another hospital subsidiary corporation.*

(f) *The term "committee" means a committee or board of trustees of a health care provider or group of health care providers established to make recommendations, policies, or decisions regarding patient institutional utilization, patient treatment, or institutional staff privileges, or to perform other administrative or professional purposes or functions.*

(2)(1) A group or association of health care providers as defined in paragraph 6.—768.54(1)(b), composed of any number of members, is authorized to self-insure against claims arising out of the rendering of, or failure to render, medical care or services or against claims for injury or death to insured's patients and coverage for bodily injury or property damage, including all patient injuries arising out of the insured's activities, upon obtaining approval from the department and upon complying with the following conditions:

(a) Establishment of a Medical Malpractice Risk Management Trust Fund to provide coverage against professional medical malpractice liability.

(b) Employment of professional consultants for loss prevention and claims management coordination under a risk management program.

(3) *The fund may insure hospital parent corporations, hospital subsidiary corporations, and committees against claims arising out of the rendering of, or failure to render, medical care or services.*

(4) *The fund Any such group or association shall be subject to regulation and investigation by the department. The fund group or association shall be subject to such rules as the department adopts, and shall also be subject to part VIII of chapter 626, relating to trade practices and frauds.*

(5)(2) The trust fund is authorized to purchase medical malpractice insurance up to determined limits, specific excess insurance, and aggregate excess insurance, up to determined limits as necessary to provide the insurance coverages authorized by this section, consistent with market availability. The trust fund is further authorized to purchase such risk management services as may be required and pay claims as may arise under any deductible provisions.

(6)(2) The department shall promulgate rules and regulations to implement the provisions of this section. *The Such rules and regulations shall guarantee the maintenance of a sufficient reserve in the event of the dissolution of any trust fund authorized hereunder so as to cover contingent liabilities. The rules shall also require members of the self-insurance trust fund to be jointly and severally liable for all losses incurred by the trust fund during the period of time the member participated in the trust fund.*

(7) *The expense factors associated with rates utilized by a fund shall be filed with the department at least 30 days prior to use and shall not be utilized until approved by the department. The department shall disapprove the rates unless the filed expense factors associated therewith are justified and reasonable for the benefits and services provided.*

Section 14. Section 627.4133, Florida Statutes, is created to read:

627.4133 Notice of cancellation, nonrenewal or renewal premium.—

(1) An insurer issuing a policy providing coverage for property, casualty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728, shall give the named insured at least 45 days advance written notice of nonrenewal or of the renewal premium. If the policy is not to be renewed the written notice shall state the reason or reasons as to why the policy is not to be renewed.

(2) An insurer issuing a policy providing coverage for property, casualty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728 or s. 627.7281, shall give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

(a) When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given; and

(b) When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no such policy shall be canceled by the insurer except where there has been a material misstatement, nonpayment of premium, failure to comply with underwriting

requirements established by the insurer within 90 days of the date of effectuation of coverage, a substantial change in the risk covered by the policy, or the cancellation is for all insureds under such policies for a given class of insureds. The provisions of this subsection shall not apply to individually rated risks having a policy term of less than 90 days.

(3) If an insurer fails to provide the 45-day or 20-day written notice required under this section, the coverage provided to the named insured shall remain in effect until 45 days after the notice is given or until the effective date of replacement coverage is obtained by the named insured, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that in the event of failure to provide notice of nonrenewal if the rate filing then in effect would have resulted in a premium reduction the premium during such extension of coverage shall be calculated based upon the later rate filing.

Section 15. Section 627.4205, Florida Statutes, is created to read:

627.4205 Coverage identification number required.—An insurer shall provide to the named insured a coverage identification number no later than the time insurance coverage under a policy, binder, or other contract providing any insurance or surety coverage becomes effective. The coverage identification number shall be construed for regulatory purposes under this code as a policy number.

Section 16. Subsection (1) of section 627.421, Florida Statutes, is amended to read:

627.421 Delivery of policy.—

(1) Subject to the insurer's requirement as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto *not later than 60 days after the effectuation of coverage within a reasonable period of time after its issuance, except when a condition required by the insurer has not been met by the applicant or insured.*

Section 17. Section 624.4365, Florida Statutes, is created to read:

624.4365 Reports of information by self-insurers required.—

(1) Any self-insurance plan, fund, or program established by any person pursuant to s. 627.356, s. 627.357, ss. 624.460-624.488, or ss. 629.50-629.519 shall, by December 1 of each year, transmit the following information to its participants and to the department on a form completely separate from annual financial statements:

(a) As to any person who is an officer or director of a self-insurance plan, fund, or program who has an interest in, or receives any form of benefit with any monetary value from the plan, fund, or program, the person's relationship to the plan, fund, or program shall be disclosed, with the nature of the person's interest and the value in dollars of the benefits paid or owed to the person by the plan, fund or program; and

(b) As to any person who is an officer or director of, employed by, or authorized to act on behalf of, any person participating in a self-insurance plan, fund, or program, and who has a financial interest in or receives any form of benefit with any monetary value from the plan, fund, or program, the person's relationship to the plan, fund, or program shall be disclosed, with the nature of the person's interest and the value in dollars of the benefits paid or owed by the plan, fund, or program to the person.

(2) Any person who violates this section is subject to an administrative penalty of \$1,000.

Section 18. Section 629.50, Florida Statutes, is amended to read:

629.50 Limited commercial reciprocal insurer.—

(1) Any group of ~~2 to~~ 250 persons may form a limited reciprocal insurer for the purpose of pooling and spreading liabilities of its group members in any commercial property or casualty risk.

(2) As used in ss. 629.50-629.519, "limited commercial reciprocal insurer" or "limited reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact, each of which does not hold any other license as an insurer in this or any other state:

(a) Which aggregation is organized for, and the primary activities of which consists of, assuming and spreading all or any portion of the commercial property or commercial casualty exposure, except workers' compensation, and employer's liability of its members. ~~;~~ and

(b) Which aggregation has and maintains a minimum surplus amount of at least \$100,000 furnished to the department a financial statement, prepared in accordance with generally accepted accounting principles, certifying that the members of the group have a combined net worth of not less than \$500,000 which shall be maintained.

(3) A limited reciprocal insurer shall maintain a sufficient reserve so as to be actuarially sound, including sufficient reserves to cover contingent liabilities in the event of the dissolution of the limited commercial reciprocal. ~~not assume any liability which exceeds in the aggregate the combined net worth of the members of the limited reciprocal insurer. Reinsurance or excess insurance purchased by the limited reciprocal insurer shall be deducted in determining the liability assumed.~~

(4) No person shall be a member of, or directly or indirectly participate in, more than one limited reciprocal insurer. No limited reciprocal insurer shall be a member of another limited reciprocal insurer. Any financial institution may participate in a limited reciprocal insurer with any other financial institution. A financial institution may not require as a condition precedent to making a loan that the prospective borrower insure with any limited reciprocal insurer in which that financial institution is a member.

(5) A limited reciprocal insurer shall not participate in the Florida Insurance Guaranty Association.

Section 19. Subsection (2) of section 629.501, Florida Statutes, is amended to read:

629.501 Reinsurance.—

(2) The department shall disallow any credit which it finds would be contrary to the proper interests of the subscribers policyholders or stockholders of a ceding limited reciprocal insurer.

Section 20. Section 629.511, Florida Statutes, is amended to read:

629.511 Use of agents.—Each policy or contract of insurance between the limited reciprocal insurer and its members shall be signed by a resident agent licensed by any authorized insurer to write the type of insurance provided by the policy or contract in Florida. ~~The agent need not be licensed by the limited reciprocal insurer licensed general lines agent as defined in s. 626.041. A limited reciprocal insurer shall be responsible for the acts of agents while acting on its behalf.~~

Section 21. Section 629.513, Florida Statutes, is amended to read:

629.513 Making and use of rates.—

(1) With respect to all classes of insurance which a limited reciprocal insurer shall underwrite, the rates shall not be excessive, inadequate, or unfairly discriminatory.

(2) ~~A No~~ rate shall be held to be inadequate ~~if unless the department proves that:~~

(a) The rate is unreasonably low for the coverage provided; ~~or and~~

(b) The continued use of the rate endangers the solvency of the members of the limited reciprocal insurer.

(3) ~~A rate shall be held to be excessive if the expense factors associated with the rate are not justified or not reasonable for the benefits and services provided.~~

(4)~~(3)~~ Nothing herein shall be construed to prohibit the department from examining a limited reciprocal insurer pursuant to s. 627.321.

(5)~~(4)~~ A limited reciprocal insurer shall not be required to file its rates with the department.

Section 22. Section 629.517, Florida Statutes, is amended to read:

629.517 Suspension or revocation.—The department shall suspend or revoke the certificate of authority of a limited reciprocal insurer if it finds that the ratio of net premiums written, or reasonably projected to be written in a 12-month period, to surplus as to policyholders exceeds 4 to 1, and if the department has reason to believe the financial condition of the limited reciprocal endangers the interests of the subscribers.

Section 23. Section 629.519, Florida Statutes, is amended to read:

629.519 Conversion of limited commercial reciprocal insurer.—When a limited commercial reciprocal insurer has a surplus of assets over all lia-

bilities of not less than \$25 million, ~~or has more than 250 members~~ at the date of its subsequent annual statement, the limited *commercial* reciprocal insurer shall within 1 year convert to a reciprocal, mutual, or stock insurer and shall be subject to all the provisions of the Florida Insurance Code applicable to insurers in general. Nothing contained in this section shall prohibit a limited reciprocal insurer from transacting business during the conversion period.

Section 24. Section 624.460, Florida Statutes, is created to read:

624.460 Short title.—Sections 624.460-624.488 may be cited as the Commercial Self-Insurance Fund Act.

Section 25. Section 624.462, Florida Statutes, is created to read:

624.462 Commercial self-insurance funds.—

(1) Any group of persons may form a commercial self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any commercial property or casualty risk.

(2) As used in ss. 624.460-624.488, “commercial self-insurance fund” or “fund” means a group of members, operating individually and collectively through an association, that must be:

(a) Established by:

1. A not for profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of Florida, and which has been organized and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance; or

2. A self-insurance trust fund organized pursuant to s. 627.356 or s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.356 or s. 627.357.

(b) Operated pursuant to a trust agreement by a board of trustees which shall have complete fiscal control over the fund and which shall be responsible for all operations of the fund. The majority of the trustees shall be owners, partners, officers, directors, or employees of one or more members of the fund. The trustees shall have the authority to approve applications of members for participation in the fund and to contract with an authorized administrator or servicing company to administer the day-to-day affairs of the fund.

(3) Each member of a commercial self-insurance trust fund established pursuant to this section must maintain membership in the association or self-insurance trust fund established under 627.356 or 627.357.

(4) Any financial institution may participate as a member in a commercial self-insurance fund. A financial institution may not require as a condition precedent to making a loan that the prospective borrower insure with any commercial self-insurance fund. Any financial institution participating in a commercial self-insurance fund may participate only for the purpose of providing coverage on the financial institution's direct commercial property and commercial casualty exposures. The financial institution may not participate for the purpose of covering the direct or indirect exposures of its customers.

(5) A commercial self-insurance fund shall not participate in the Florida Insurance Guaranty Association.

(6) A governmental self-insurance pool created pursuant to s. 768.28(13) shall not be considered a commercial self-insurance fund.

Section 26. Section 624.464, Florida Statutes, is created to read:

624.464 Certificate of authority; penalty.—

(1) No person shall establish a commercial self-insurance fund unless such fund is issued a certificate of authority by the department pursuant to s. 624.466.

(2)(a) Any person failing to hold a subsisting certificate of authority from the department while operating or maintaining a commercial self-insurance fund shall be subject to a fine of not less than \$5,000 or more than \$10,000 for each violation.

(b) Any person who operates or maintains a commercial self-insurance fund without a subsisting certificate of authority from the department shall be subject to the cease and desist penalty powers of the department as set forth in ss. 626.9571, 626.9581, 626.9591, and 626.9601.

(c) In addition to the penalties and other enforcement provisions of the Florida Insurance Code, the department is vested with the power to seek both temporary and permanent injunctive relief when:

1. A commercial self-insurance fund is being operated by any person or entity without a subsisting certificate of authority.

2. Any person, entity, or commercial self-insurance fund has engaged in any activity prohibited by the Florida Insurance Code made applicable by ss. 624.460-624.488 or by any rule adopted pursuant thereto.

3. Any commercial self-insurance fund, person, or entity is renewing, issuing, or delivering a policy, contract, certificate, summary plan description, or other evidence of the benefits and coverages provided to members without a subsisting certificate of authority.

The department's authority to seek injunctive relief shall not be conditioned on having conducted any proceeding pursuant to chapter 120. The authority vested in the department by virtue of the operation of this section shall not act to reduce any other enforcement remedy or power to seek injunctive relief that may otherwise be available to the department.

Section 27. Section 624.466, Florida Statutes, is created to read:

624.466 Requirements for certificate of authority.—All applications for a certificate of authority for a commercial self-insurance fund shall be on a form furnished by the department, and shall include or have attached the following:

(1) The name of the fund and the location of the fund's principal office, which shall be maintained within this state.

(2) The kinds of insurance initially proposed to be transacted and a copy of each policy, endorsement, and application form it initially proposes to issue or use.

(3) A copy of the constitution, by-laws, or trust agreement which governs the operation of the fund. The constitution, by-laws, or trust agreement shall contain a provision prohibiting any distribution of surplus funds or profit except to members of the fund, as approved by the department pursuant to s. 624.473.

(4) The names and addresses of the trustees of the fund. The department shall not grant or continue approval as to any fund if the department determines any trustee to be incompetent or untrustworthy; that any trustee has been found guilty of, or has pled guilty or no contest to a felony, or a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered; or that any trustee has had any type of insurance license revoked in this or any other state.

(5) A copy of a properly executed indemnity agreement binding each fund member to individual, several, and proportionate liability as set forth in ss. 624.472 and 624.474.

(6) A plan of risk management which has established measures and procedures to minimize both the frequency and severity of losses.

(7) Proof of competent and trustworthy persons to administer or service the fund in the areas of claims adjusting, underwriting, risk management, and loss control.

(8) Membership applications and the name, address, and a current financial statement on each member applying for coverage showing the aggregate net worth of all members to be not less than \$500,000, a combined ratio of current assets to current liabilities of more than 1 to 1 and a combined working capital of an amount establishing financial strength and liquidity of the businesses to promptly provide for payment of the normal property or casualty claims proposed to be self-insured.

(9)(a) An initial deposit of cash or securities of the type eligible for deposit by insurers under s. 625.52 in the amount of \$100,000. All income from deposits shall belong to the fund and shall be transmitted to the fund as it becomes available. No judgment creditor or other claimant of the fund shall have the right to levy upon any of the assets or securities held as a deposit under this section.

(b) In lieu of the deposit of cash or securities, a fund 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 bond shall be canceled or subject to cancellation unless at least 60 days' advance notice thereof in writing is filed with the department. No bond shall be approved unless it covers liabilities arising from all policies and contracts issued and entered into during the time the bond is in effect and unless the department is satisfied that the bond provides the same degree of security as would be provided by a deposit of securities.

(c) Deposits of securities or cash pursuant to this section shall be administered by the department in accordance with part III of chapter 625.

(10) Copies of acceptable excess insurance policies written by an insurer or insurers authorized or approved to transact insurance in this state, which excess insurance provides specific and aggregate limits and retention levels satisfactory to the department in accordance with sound actuarial principles. The department may waive this requirement if the fund demonstrates to the satisfaction of the department that its operation is and will be actuarially sound without obtaining excess insurance.

(11) At least 10 days prior to the proposed effective date of the issuance of any policy, the trustees shall submit proof that the members have paid into a common claims fund in a designated depository, cash premiums in an amount of not less than \$50,000 or ten percent of the estimated annual premium of the members at the inception, whichever is greater.

(12) A copy of a fidelity bond or insurance policy from an authorized insurer providing coverage in an amount equal to not less than 10 percent of the funds handled annually and issued in the name of the fund covering its trustees, employees, administrator, or other individuals managing or handling the funds or assets of the fund. In no case may such bond or policy be less than \$1,000 or more than \$500,000, except that the department may for good cause prescribe an amount in excess of \$500,000, subject to the 10 percent limitation of the preceding sentence.

(13)(a) A plan of operation designed to provide sufficient revenues to pay current and future liabilities, as determined in accordance with sound actuarial principles.

(b) A statement prepared by an actuary who is a member of the American Academy of Actuaries or the Casualty Actuarial Society establishing that the fund has prepared a plan of operation which is based on sound actuarial principles. The department shall not approve the fund unless the department determines that the plan established by the fund is designed to provide sufficient revenues to pay current and future liabilities, as determined in accordance with sound actuarial principles.

(14) Such additional information as the department may reasonably require.

Section 28. Section 624.468, Florida Statutes, is created to read:

624.468 Continuing requirements.—After issuance of its initial certificate of authority a commercial self-insurance fund shall thereafter meet the following requirements as a condition of maintaining its certificate of authority:

(1) Maintenance of competent and trustworthy persons to service the program, as further specified in s. 624.466(6). Written notice shall be provided to the department before changing the fund's method of fulfilling its servicing requirements.

(2) Maintenance of a risk management program as further specified in s. 624.466(6).

(3) Maintenance of a deposit of cash or securities in the amount of \$100,000, or a surety bond in lieu thereof, as further specified in s. 624.466(9).

(4) Maintenance of excess insurance in accordance with sound actuarial principles, unless waived by the department, as further specified in s. 624.466(10).

(5) Maintenance of a fidelity bond, as further specified in s. 624.466(12).

(6) Maintenance of appropriate, funded loss reserves determined in accordance with sound actuarial principles satisfactory to the department.

(7) Maintenance of an aggregate net worth of at least \$500,000 of all fund members, as further specified in s. 624.466(8). A fund shall not be required to provide financial statements of its members evidencing conformity to this requirement after its certificate of authority has been issued, unless required to do so by the department upon a showing of good cause.

(8) Each fund shall have and maintain its principal place of business in this state and shall therein make available to the department upon reasonable notice complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary for, or suitable to, the kind or kinds of business transacted.

(9) A fund shall file such reports with the department as are required by s. 624.470.

(10) A fund shall report to the department within 15 days of a determination that the actual premiums written or liability assumed or any other factor which substantially contributes to the financial condition of the plan deviates by more than 25 percent from the projections used in the most recent annual report, as required by s. 624.470 or, if the first annual report has not yet been filed, projections used in the initial plan of operation.

(11) Payment of the annual license tax provided for in s. 624.501(3).

Section 29. Section 624.470, Florida Statutes, is created to read:

624.470 Annual reports.—

(1) Every fund shall, annually within 3 months of the end of the fiscal year, file a financial statement of the fund, including its balance sheet and a statement of operations for the preceding year, verified by the oath of a member of the board of trustees or by an administrative executive appointed by the board.

(2) Every fund shall, annually within 6 months of the end of the fiscal year, file a report with the department verified by the oath of a member of the board of trustees or by an administrative executive appointed by the board, containing the following information:

(a) A financial statement of the fund, including its balance sheet and a statement of operations for the preceding year certified by an independent certified public accountant.

(b) A report prepared by an actuary who is a member of the American Academy of Actuaries as to the actuarial soundness of the fund. The report shall consist of, but shall not be limited to, the following:

1. Adequacy of premiums or contributions in paying claims and changes, if any, needed in the contribution rates to achieve or preserve a level of funding deemed adequate, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the plan and the extent of any unfunded accrued liabilities.

2. A plan to amortize any unfunded liabilities and a description of actions taken to reduce unfunded liabilities.

3. A description and explanation of actuarial assumptions.

4. A schedule illustrating the amortization of any unfunded liabilities.

5. A comparative review illustrating the level of funds available to the commercial self-insurance fund from rates, investment income, and other sources realized over the period covered by the report, indicating the assumptions used.

6. A projection of the following year's plan of operation, including additional number of members, gross premiums to be written, and projected liabilities.

7. A statement by the actuary that the report is complete and accurate and that in his opinion the techniques and assumptions used are reasonable and meet the requirements of this subsection.

8. Other factors or statements as may be reasonably required by the department in order to determine the actuarial soundness of the plan.

(c) Any changes in the constitution, by-laws, or trust agreement of the fund.

Section 30. Section 624.472, Florida Statutes, is created to read:

624.472 Member's liability.—

(1) The liability of each member for the obligations of the commercial self-insurance fund shall be individual, several, and proportionate, but not joint, except as provided in this section and s. 624.474.

(2) Each member shall have a contingent assessment liability, for payment of actual losses and expenses incurred while his policy was in force.

(3) Each policy issued by the fund shall contain a statement of the contingent liability. Both the application for insurance and the policy shall contain in contrasting color and in not less than 10-point type the following statements: "This is a fully assessable policy. In the event the fund is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations."

Section 31. Section 624.473, Florida Statutes, is created to read:

624.473 Dividends.—A commercial self-insurance fund shall obtain the approval of the department prior to paying any dividend or refund to its members. No such dividend or refund may be approved until 12 months after the last day of the fiscal year for which the dividend or refund is payable, or such later time as the department may require in accordance with sound actuarial principles.

Section 32. Section 624.474, Florida Statutes, is created to read:

624.474 Assessments.—

(1) The trustees may assess from time to time members of a commercial self-insurance fund liable therefor under the terms of their policies or the department may assess the members in the event of liquidation of the fund.

(2) Each member's share of a deficiency for which an assessment is made shall be computed by applying, to the premium earned on the member's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment. In the event one or more members fail to pay an assessment, the other members are liable on a proportionate basis for an additional assessment. The fund, acting on behalf of all members who paid the additional assessment, shall institute legal action to recover the assessment from members who failed to pay it.

(3) In computing the earned premiums for the purposes of this section, the gross premium received by the fund for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(4) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Section 33. Section 624.476, Florida Statutes, is created to read:

624.476 Impaired commercial self-insurance funds.—

(1) If the assets of a commercial self-insurance fund are at any time insufficient to comply with the requirements of law or to discharge its liabilities, other than any liability on account of funds contributed by the trustees or others, and to meet the required conditions of financial soundness, or if a judgment against the fund has remained unsatisfied for 30 days, its trustees shall forthwith make up the deficiency or levy an assessment upon the members for the amount needed to make up the deficiency, but subject to the limitation set forth in the trust agreement or the policy.

(2) If the trustees fail to make up such deficiency or to make the assessment within 30 days after the department orders them to do so, or if the deficiency is not fully made up within 60 days after the date the assessment was made, the fund shall be deemed insolvent and shall be proceeded against as provided for in part I of chapter 631.

(3) Subject to the provisions of this section, any rehabilitation, liquidation, conservation, or dissolution of a commercial self-insurance fund shall be conducted under the supervision of the department, which shall have all power with respect thereto granted to it under part I of chapter 631 governing the rehabilitation, liquidation, conservation, or dissolution of insurers.

Section 34. Section 624.478, Florida Statutes, is created to read:

624.478 Use of agents.—A commercial self-insurance fund shall use an agent licensed under parts I and II of chapter 626 to perform any of the activities described in 626.041(2). A commercial self-insurance fund shall have the authority to license agents in accordance with parts I and II of chapter 626, and the fund and its licensed agents shall be subject to the requirements of such provisions.

Section 35. Section 624.480, Florida Statutes, is created to read:

624.480 Filing, approval, and disapproval of forms.—

(1) No basic insurance policy or application form where written application is required and is to be a part of the policy or contract or printed rider or endorsement form shall be issued by a commercial self-insurance fund unless the form has been filed with and approved by the department.

(2) Every such filing shall be made not less than 30 days in advance of any such use or delivery. At the expiration of such 30 days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively proved or disapproved by order of the department. The department may extend by not more than an additional 15 days the period within which it may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial 30-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form must be deemed approved.

(3) The department shall disapprove any form or withdraw any previous approval thereof only if the form:

(a) Is in any respect in violation of, or does not comply with, this code.

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

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

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

Section 36. Section 624.482, Florida Statutes, is created to read:

624.482 Making and use of rates.—

(1) With respect to all classes of insurance which a commercial self-insurance fund shall underwrite, the rates shall not be excessive, inadequate, or unfairly discriminatory.

(2) A rate shall be held to be excessive if the expense factors associated with the rate are not justified or are not reasonable for the benefits and services provided.

(3) Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

(4) A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

(5) If the department determines that the continued use of a rate for a coverage endangers the solvency of the fund, it may issue an order requiring the rate to be increased or requiring the fund to limit or cease writing the coverage.

(6) A fund shall have the burden of proving that a rate filed is adequate if, during the first 5 years of issuing policies, the fund files a rate that is below the rate for loss and loss adjustment expenses for the same type and classification of insurance that has been filed by the Insurance Services Office and approved by the department.

(7) Nothing herein shall be construed to prohibit the department from examining a fund pursuant to s. 627.321.

(8) A commercial self-insurance fund shall be required to file its rates, including credits and surcharge schedules, with the department for approval pursuant to the standards of this section and the procedures of s. 624.480(2).

(9) Any commercial self-insurance fund may subscribe to, or be a member of, a rating organization as prescribed in s. 627.231. A rating organization shall not discriminate against a commercial self-insurance fund as to conditions of subscription or membership.

Section 37. Section 624.484, Florida Statutes, is created to read:

624.484 Registration of agent.—A commercial self-insurance fund shall register with and designate the Insurance Commissioner as its agent solely for the purpose of receiving service of legal documents or process and furnish a copy of a financial report, in accordance with s. 624.424, to the department.

Section 38. Section 624.486, Florida Statutes, is created to read:

624.486 Examination.—Commercial self-insurance funds licensed under ss. 624.460-624.488 shall be subject to periodic examination by the department in the same manner, and subject to the same terms and conditions, applicable to insurers under part II of chapter 624.

Section 39. Section 624.488, Florida Statutes, is created to read:

624.488 Applicability of related laws.—In addition to other provisions of the code cited in ss. 624.460-624.488, ss. 624.155, 624.308, 624.414, 624.415, 624.416(4), 624.418-624.4211, except s. 624.418(2)(f), 624.501; chapter 625, part II; applicable sections of chapter 626, part VI, and s. 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (q), (u), (w), and (x); ss. 626.9561-626.9641, 627.413, 627.4132, 627.416, 627.418, 627.420, 627.4265, 627.421, 627.425, 627.426, 627.427, 627.428, 627.702, 627.706, part XI of chapter 627, 627.912, 627.913, 627.918, and 628.361(2), shall apply to commercial self-insurance funds. No section of the code not expressly and specifically cited in ss. 624.460-624.488 shall apply to commercial self-insurance funds.

Section 40. Subsection (10) of section 517.051, Florida Statutes, is amended to read:

517.051 Exempt securities.—The registration provisions of s. 517.07 do not apply to any of the following securities:

(10) Any insurance or endowment policy or annuity contract or optional annuity contract or *self-insurance agreement* issued by a corporation, *insurance company, reciprocal, or risk retention group* subject to the supervision of the insurance commissioner or bank commissioner, or any agency or officer performing like functions, of any state or territory of the United States or the District of Columbia.

Section 41. (1) The Legislature has conclusively determined that a financial crisis exists in the liability insurance industry in this state. Many groups of otherwise insurable persons, particularly professionals, can obtain liability insurance, if at all, only upon the payment of tremendous premiums. The additional costs are being passed on to all segments of society. The Legislature seeks to amend the doctrine of joint and several liability to assist in controlling the crisis.

(2) The following definitions apply to this section:

(a) "Economic damages" means past lost income and future lost income reduced to present value; medical and funeral expenses; lost support and services; replacement value of lost personal property; loss of appraised fair market value of real property; and costs of construction repairs, including labor, overhead, and profit.

(b) "Noneconomic damages" means all damages not contained in the definition of economic damages, including but not limited to damages for:

1. Loss of consortium.
2. Loss of use and enjoyment.
3. Pain and suffering, including mental pain and anguish.
4. Loss of love and affection.

(c) "Negligence cases" includes, but is not limited to, civil cases based upon theories of negligence, gross negligence, strict liability, products liability, professional malpractice whether couched in terms of contract or tort, or breach of warranty and like theories.

(3) In all negligence cases, the doctrine of joint and several liability applies only to the economic damages awarded to the plaintiff. The doctrine of joint and several liability does not apply to the noneconomic damages awarded to the plaintiff.

(4) In all negligence cases, the jury or the court in nonjury cases shall apportion the percentage of fault of the plaintiff and the percentage of fault attributable to each of the defendants.

(5) In all negligence cases tried by a jury, neither the court in instructing the jury nor the attorneys may mention, comment upon, or in any way discuss in front of the jury the doctrine of joint and several liability.

(6) In determining whether a case falls within the term "negligence case" in paragraph (2)(c), the court shall look to the substance of the action and not the conclusory terms used by the parties. A major factor for the court to consider in making this determination is the existence of a policy of insurance providing liability coverage for the type of acts the defendants allegedly performed.

(7) This section does not apply to any cause of action as to which application of the doctrine of joint and several liability is specifically provided by chapter 403, chapter 498, chapter 517, chapter 542, or chapter 895, Florida Statutes.

(8) This section shall take effect July 1, 1986, or upon becoming a law, whichever occurs later, and shall apply to all civil cases filed on or after that date.

Section 42. Punitive damages in civil actions.—

(1) In any civil action for recovery of damages, whether in tort or in contract, no claim for punitive damages shall be permitted without first obtaining leave of court. The court shall not grant an amendment to the complaint for an award of punitive damages unless the court determines by the greater weight of the evidence that the alleged actions of the defendant provide a legal basis for punitive damages if such allegations are determined to be true by the trier of fact. No discovery of financial worth shall be allowed until after the pleading concerning punitive damages is permitted by the court.

(2) Punitive damages assessed against a defendant shall be transferred to the State Treasury for deposit in the General Revenue Fund, except that 5 percent of such punitive damages shall be awarded to the plaintiff, and except that 100 percent of such punitive damages shall be awarded to the plaintiff in cases of libel, slander, or torts constituting criminal conduct. The provisions of this subsection shall not be introduced in evidence and shall not be disclosed during voir dire. This subsection shall not be construed to make the state a party to any action in which punitive damages are claimed.

Section 43. Offer of judgment and demand for judgment in civil actions.—In any action for recovery of damages based upon injury to person or property, or for wrongful death, whether in tort or in contract, if a defendant files an offer of judgment which is not accepted by the plaintiff, the defendant shall be entitled to recover reasonable costs and attorney's fees incurred from the date of filing of the offer if the judgment obtained by the plaintiff is at least 25 percent less than such offer and the court shall set off such costs and attorney's fees against the award. Where such costs and attorney's fees total more than the judgment, the court shall enter judgment for the defendant against the plaintiff for the amount of the costs and fees, less the amount of the plaintiff's award. If a plaintiff files a demand for judgment which is not accepted by the defendant and the plaintiff recovers a judgment in an amount at least 25 percent greater than the offer, he shall be entitled to recover reasonable costs and attorney's fees incurred from the date of the filing of the demand. If rejected, neither an offer nor demand is admissible in subsequent litigation, except for pursuing the penalties of this section. Any offer or demand for judgment made pursuant to this section may be accepted within 60 days after filing of the suit, but may not be accepted later than 10 days before the date of trial.

Section 44. Determination of noneconomic damages.—

(1) It is the intent of the Legislature to provide a rational basis for determining the maximum amount of damages for noneconomic losses which may be awarded in civil actions based on personal injury or wrongful death. In so doing, the Legislature recognizes that such noneconomic losses should be fairly compensated but also recognizes the desirability of balancing the interests of the injured party with those of society as a whole in that the burden of compensating for such losses is ultimately carried by all citizens instead of by the tortfeasor alone. The Legislature further recognizes that the relationship between economic and noneconomic losses varies significantly depending on the extent of the economic losses, and that noneconomic items of damages do not permit accurate or even approximate monetary assessment.

(2) Damages for noneconomic losses to compensate for pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of capacity for enjoyment of life, and other nonpecuniary damages may be awarded in any action for personal injury or wrongful death.

(3) Damages for noneconomic losses may be awarded to each person entitled thereto in an amount not to exceed \$500,000.

(4) This section shall apply to all causes of action filed on or after July 1, 1986.

Section 45. Alternative methods of payment of damage awards.—

(1) In any action for recovery of damages based upon injury to person or property, or for wrongful death, whether in tort or contract, in which the trier of fact makes an award to compensate the claimant for future losses which exceed \$350,000, payment of amounts intended to compensate the claimant for these losses shall be made by one of the following means:

(a) The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

(b) Subject to the provisions of this section, the court shall, at the request of either party, unless the court determines that manifest injustice would result to any party, enter a judgment ordering the damages for future losses in excess of \$350,000 to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

(2) In entering a judgment ordering the payment of such future damages by periodic payments, the court shall make a specific finding of the dollar amount of periodic payments which will compensate the judgment creditor for these future damages after offset for collateral sources. The total dollar amount of the periodic payments shall equal the dollar amount of all such future damages before any reduction to present value, less any attorney's fees payable from future damages in accordance with subsection (6). The period of time over which the periodic payments shall be made is the period of years determined by the trier of fact in arriving at its itemized verdict, and shall not be extended if the plaintiff lives beyond the determined period. If the claimant has been awarded damages to be discharged by periodic payments and the claimant dies prior to the termination of the period of years during which periodic payments are to be made, the remaining liability of the defendant shall be paid into the estate of the claimant in a lump sum. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant.

(3) As a condition to authorizing periodic payments of future damages, the court shall require the defendant to post a bond or security or otherwise to assure full payment of these damages awarded by the judgment. A bond is not adequate unless it is written by a company authorized to do business in this state and is rated A§ by Best's. If the defendant is unable to adequately assure full payment of the damages, the court shall order that all damages be paid to the claimant in a lump sum pursuant to the verdict. No bond may be canceled or be subject to cancellation unless at least 60 days' advance written notice is filed with the court and the judgment creditor. Upon termination of periodic payments, the court shall order the return of the security, or so much as remains, to the judgment debtor.

(4)(a) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to timely make the required periodic payments, the court shall:

1. Order that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order;

2. Order that, in addition to the required periodic payments, the judgment debtor pay the claimant all damages caused by the failure to timely make periodic payments, including court costs and attorney's fees; or

3. Enter other orders or sanctions as appropriate to protect the judgment creditor.

(b) If it appears that the judgment debtor may be insolvent or that there is a substantial risk that the judgment debtor may not have the financial responsibility to pay all amounts due and owing the judgment creditor, the court may order additional security, order that the balance of payments due be placed in trust for the benefit of the claimant, order

that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order, or order such other protection as may be necessary to assure the payment of the remaining balance of the judgment.

(5) The judgment providing for payment of future damages by periodic payments shall specify the recipient or recipients 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 shall be made. Periodic payments shall be subject to modification only as specified in this section.

(6) Claimant's attorney's fee, if payable from the judgment, shall be based upon the total judgment, adding all amounts awarded for past and future damages. The attorney's fee shall be paid from past and future damages in the same proportion. If a claimant has agreed to pay his attorney's fees on a contingency fee basis, the claimant shall be responsible for paying the agreed percentage calculated solely on the basis of that portion of the award not subject to periodic payments. The remaining unpaid portion of the attorney's fees shall be paid in a lump sum by the defendant, who shall receive credit against future payments for this amount. However, the credit against each future payment is limited to an amount equal to the contingency fee percentage of each periodic payment. Any provision of this subsection may be modified by the agreement of all interested parties.

(7) Nothing in this section shall preclude any other method of payment of awards, if such method is consented to by the parties.

Section 46. Itemized verdict.—In any action for damages, whether in tort or in contract, in which the trier of fact determines that liability exists on the part of the defendant, the trier of fact shall, as a part of the verdict, itemize the amounts to be awarded to the claimant into past economic damages, past noneconomic damages, future economic damages, and future noneconomic damages. In itemizing amounts intended to compensate for future losses, the trier of fact shall set forth the period of years over which such amounts are intended to provide compensation.

Section 47. Collateral sources of indemnity in civil actions.—

(1) In any action for damages, whether in tort or in contract, in which liability is admitted or is determined by the trier of fact and damages are awarded to compensate the claimant for losses sustained, the court shall advise the jury, or, in a nonjury case, the court shall take notice of, the total amount of all collateral sources of indemnity paid or owing to the claimant and the subrogation rights that any third party may have. The trier of fact shall specify, in any award of damages, the amount of collateral sources, if any, by which it reduced the award.

(2) For purposes of this section, "collateral sources" means any payments made to the claimant, or on his behalf, by or pursuant to:

(a) The United States Social Security Act; any federal, state, or local income disability act; or any other public programs providing medical expenses, disability payments, or other similar benefits.

(b) Any health, sickness, or income disability insurance; automobile accident insurance that provides health benefits or income disability coverage; and any other similar insurance benefits, except life insurance benefits available to the claimant, whether purchased by him or provided by others.

(c) Any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the claimant for damages sustained as a result of which suit is filed, including costs of hospital, medical, dental, or other health care services.

(d) Any contractual or voluntary wage continuation plan provided by employers or any other system intended to provide wages during a period of disability.

(e) Any property, casualty, surety, or other type of insurance, except life insurance benefits available to the claimant, whether purchased by him or provided by others.

(3) In the event that the fees for legal services provided to the claimant are based on a percentage of the amount of money awarded to the claimant, such percentage shall be based on the net amount of the award as reduced by the amounts of collateral sources and as increased by insurance premiums paid.

(4)(a) The subrogation rights and rights of reimbursement of an insurer with respect to any right of recovery or offset of collateral sources under this section shall be reduced by a pro rata share, calculated in the manner specified in paragraph (b), of the amount which the plaintiff has paid or contributed to secure those benefits, and shall be further reduced by the total amount of premiums paid for the policy of insurance under which the insurer's right to subrogation or reimbursement has arisen which have accrued during the 4 years immediately preceding the payment of the claim which gave rise to the right of reimbursement, or which have accrued since the execution date of the original policy, if such execution date occurred less than 4 years before the payment of the claim which gave rise to the action for subrogation or reimbursement. No subrogation right or right of reimbursement shall exist with regard to any collateral source benefit, the amount of which is less than the total accrued premium paid by the insured calculated in the manner provided by this subsection.

(b) An insurer's subrogation rights or rights of reimbursement shall be limited to its pro rata share for collateral sources provided, minus its pro rata share of costs and attorney's fees incurred by the claimant in recovering such collateral sources from the tortfeasor. In determining the provider's pro rata share of those costs and attorney's fees, the provider shall have deducted from its recovery an amount equal to the percentage of the judgment or settlement which is for costs and attorney's fees. Subject to this deduction, the provider shall recover from the judgment or settlement, after costs and attorney's fees incurred by the claimant have been deducted, 100 percent of what it has paid and future amounts to be paid, unless the claimant demonstrates that he did not recover the full value of damages sustained because of comparative negligence or because of limits of insurance coverage and collectibility.

(5) A provider of collateral sources which has paid for or provided medical services to or on behalf of a claimant shall have a right of action against the tortfeasor for such expenses that were not recovered by the claimant because of an offset pursuant to subsection (1).

(6) Upon suit being filed, the insurer shall file in the suit a notice of payment of insurance benefits to the insured, which notice shall constitute a lien upon any judgment or settlement recovered to the extent that the court may determine to be its pro rata share for insurance benefits paid under the provisions of this section, less its pro rata share of all court costs expended by the plaintiff in the prosecution of the suit including reasonable attorney's fees for the plaintiff's attorney. Any action for subrogation based on an offset for collateral sources under this section shall be filed within 30 days after such offset has been made by the court.

Section 48. Section 57.105, Florida Statutes, is amended to read:

57.105 Attorney's fee.—The court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney in any civil action in which the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party.

Section 49. (1) It is the intent of the Legislature that there be established court-annexed forms of alternative dispute resolution in order to expedite litigation in a less costly manner.

(2) Based upon the recommendations of the plan submitted by the Study Commission on Alternative Dispute Resolution to the Legislature and the Chief Justice of the Florida Supreme Court on February 1, 1986, and based upon any other considerations it deems appropriate, the Supreme Court shall develop a plan for the statewide implementation of mandatory mediation and mandatory nonbinding arbitration for all contested civil actions and of voluntary binding arbitration for all civil disputes prior to or after a lawsuit has been filed. The plan shall be submitted, no later than March 1, 1987, to the Legislature for review and implementation.

Section 50. (1) There is created within the Executive Office of the Governor the Academic Task Force for Review of the Insurance and Tort Systems. The task force shall be composed of three members, including the president of each state university which has a law school. The third member shall be appointed by the other two members and shall be a person who has demonstrated an interest in law reform. Appointment shall be made without regard to political affiliation.

(2) The task force members shall serve from July 1, 1986, until the adjournment sine die of the regular legislative session held in 1987. Vacancies shall be filled for the unexpired terms by appointment by the Governor.

(3) The task force shall elect one of its members as chairman.

(4) The members of the task force shall serve without compensation, but shall be reimbursed for per diem and travel expenses while engaged in task force duties, as provided in s. 112.061, Florida Statutes.

(5) The task force shall:

(a) Examine the common law, constitution, and statutes of the state and current judicial decisions, with respect to insurance and tort law.

(b) Recommend such changes in the insurance law and tort law as it deems proper to modify or eliminate antiquated or inequitable rules of law.

(c) Conduct such surveys or research into the insurance law and tort law of Florida and other states or nations as may be necessary.

(d) Initiate, supervise, and complete a review of the tort law and insurance law systems of this state. In so doing, it shall consult with persons experienced in the application and enforcement of insurance law and tort law in this state and persons who have experience in other states.

(e) Examine insurance company claims experience and determine the nature and extent of factors within the tort system which influence insurance rates.

(f) Examine insurance company claims experience and determine the nature and extent of factors other than the tort system which influence insurance rates.

(g) Examine and evaluate the effects of the provisions implemented by this act, including the effect of all tort and insurance provisions on insurance rates.

(h) Examine and evaluate the effects of repealing sections 624.425 and 624.426, Florida Statutes, the countersignature requirement by an insurance agent.

(i) Examine and evaluate the effects of repealing sections 626.9541, 626.753, and subsection (11) of s. 626.611, Florida Statutes, the prohibitions against rebates and fee sharing.

(j) Examine and evaluate the effects of authorizing financial institutions to employ licensed insurance agents and to engage in all facets of the insurance business.

(6) The task force has the power to subpoena, audit, and investigate. The task force may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the task force or to the exercise of its powers. In the case of a refusal to obey a subpoena issued to any person, the task force may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the task force and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases.

(7) The actions, investigations, proceedings, and records of the task force are exempt from the provisions of chapter 120, Florida Statutes. Such actions, investigations, proceedings, and records shall not be subject to discovery or introduction into evidence in any civil action arising out of matters which are the subject of evaluation and review by the task force. No person who was in attendance at a meeting of the task force shall be permitted or required to testify in any such action or proceeding as to any evidence or other matters produced or presented during the proceedings of the task force or as to any findings, recommendations, evaluations, opinions, or other actions of the task force or any members thereof. The task force may enter into confidentiality agreements with any person with respect to any information or records provided by such person to the task force whenever the task force finds that the public dissemination of such information would violate the legitimate privacy interests of any person, including any sensitive competitive information or trade secrets. Such agreements may provide for the review of such information by the task force and its subsequent return or destruction.

(8) The task force may procure information and assistance from any officer or agency of the state or any subdivision thereof. All such officers and agencies shall give the commission all relevant information and reasonable assistance on any matters of research within their knowledge and control.

(9) The task force may appoint an executive director who shall serve at the pleasure of the task force. The task force shall appoint such additional personnel, including, but not limited to, faculty members of state universities which have law schools, as are necessary for its work or may delegate its authority to make such appointments to the executive director. The task force shall fix the compensation of the executive director and of all other persons within the amount appropriated for the task force.

(10) The task force may procure temporary and intermittent professional services and render compensation therefor within the amount appropriated for the work of the task force. It may also contract for the services with colleges, universities, schools of law, or other research institutions or individuals and may cooperate generally with any association, institution, foundation or corporation.

(11) The task force shall submit to the Legislature its recommendations for changes in insurance law and tort law. The task force may also forward to the Legislature studies or recommendations of others without endorsing those studies or recommendations. The final report of the task force shall be presented to the Legislature by March 1, 1987.

(12) This section shall take effect upon becoming a law.

Section 51. Section 627.0621, Florida Statutes, is created to read:

627.0621 Casualty liability insurance; special review provisions.—

(1) No later than August 1, 1986, all insurers writing liability insurance in this state shall implement a special credit over and above all other credits or discounts which has the effect of reducing the rates in effect for each line of liability insurance to a level at least 25 percent below the rates in effect for such insurer on May 1, 1986. The credit shall be separately identified in all correspondence or billings notifying insureds as to premiums due for a policy. The rates for liability insurance resulting from implementation of the special credit provided for by this subsection shall not be increased before January 1, 1987, and shall remain in effect until January 1, 1987. This reduction shall be applicable to all policies or endorsements issued on or after July 1, 1986, and to those portions of policies or endorsements issued before July 1, 1986, for which the premium has not been earned on such date. No insurer shall be required to implement this reduction if the department finds, based upon written substantiation filed by the insurer, that the implementation of the special credit will jeopardize the solvency of the insurer. Liability coverage shall include all coverage provided by a policy which combines casualty and property coverage as defined in ss. 624.604 and 624.605. However, if separate rates are filed and in effect for the property and casualty portions of the coverage, the provisions of this section dealing with rate reductions shall not apply with respect to the separate property portion.

(2) On or before October 1, 1986, each insurer or rating organization with subscribers writing liability insurance in this state shall review its manual rates for liability insurance in effect on January 1, 1984. Each insurer or rating organization shall adjust these rates to reflect only changes in coverage and to account for changes in investment income and shall file by October 1, 1986, with the department a manual setting forth the adjusted rates, including justification for all adjustments. Adjustments to these rates shall not include any adjustment for loss experience occurring since January 1, 1984. The department shall review such rates and approve the adjustments if they are consistent with generally accepted actuarial and economic principles and the provisions of this act. Each insurer shall implement the adjusted rates submitted to and approved by the department pursuant to this subsection by January 1, 1987.

(3) Any insurer or rating organization which contends that the rate provided for in subsection (2) is excessive, inadequate, or unfairly discriminatory shall separately state in its October 1, 1986, filing the rate it contends is appropriate and shall state with specificity the factors or data which it contends should be considered in order to produce such appropriate rate. If any tort reform measure contained in this act is held unconstitutional by a court of competent jurisdiction, the department shall permit a readjustment of all rates filed under the section to reflect the impact of such holding on such rates, so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(4) Each insurer or rating organization shall include in the filing the expected impact on losses, expenses, and rates of the tort reform implemented by this act. The department shall review each such exception and approve or disapprove it pursuant to the provisions of s. 627.062. It shall

be presumed that the rate approved and implemented pursuant to subsection (2) is not excessive, inadequate or unfairly discriminatory. It shall be the insurer's burden to actuarially justify any deviations from the rates filed under subsection (2). The department shall make every reasonable effort to review by January 1, 1987, each rate filing which is timely submitted. As to any rate filing timely submitted as required by this section for which the department has not issued a preliminary order by January 1, 1987, the insurer may proceed to use the rates set forth therein subject to the refund provisions of s. 627.062.

(5) Each insurer writing liability insurance in this state shall report to the department on a one-time basis the information specified in subsection (6) for the years 1981, 1982, 1983, 1984, and 1985 by September 1, 1986. In the event the information or portions thereof as required under this subsection did not exist in the carrier's files on the effective date of this act, then the carrier shall furnish only such information or portions thereof as did exist and an affidavit sworn to by at least two executive officers of the company stating that any information not submitted was not reasonably available to the insurer.

(6) The report furnished to the department shall be provided with respect to any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence of insureds, 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.

(7) The reports required by subsection (5) shall contain:

(a)1. The name, address, and class or line of coverage of the insured.

2. The insured's policy number.

3. The date of the occurrence which created the claim.

4. The date the claim was reported to the insurer or self-insurer.

5. The date of suit, if filed.

6. The claimant's name, age, and sex; provided, however, the name of the claimant shall be maintained by the department as confidential and shall not be subject to public inspection or disclosure under chapter 119; provided further, however, that the claimant's name may be furnished by the department to the Academic Task Force for the Review of the Insurance and Tort Systems, but the claimant's name shall not be subject to public disclosure by the task force.

7. The total number and names of all defendants involved in the claim.

8. The date and amount of judgment or settlement, if any, including the itemization of the verdict, together with a copy of the settlement or judgment.

9. In the case of a settlement, such information as the department may require with regard to the injured person's incurred and anticipated medical expense, wage loss, and other expenses.

10. The loss adjustment expense paid to defense counsel and other allocated loss adjustment expense paid.

11. The date and reason for final disposition, if no judgment or settlement.

(b) A summary of the occurrence which created the claim, which shall include:

1. The name of the facility, business or institution, if any, and the location within the facility, business or institution at which the injury occurred.

2. A description of the principal injury giving rise to the claim.

3. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

(c) Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in liability cases.

(8) 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 or the Academic Task Force for Review of the Insurance and Tort Systems for any action taken by them pursuant to this subsection or subsections (4), (5), and (6).

(9) Subsections (1) through (4) do not apply to reinsurance or to self-insurance.

Section 52. 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 to be severable.

Section 53. Except as otherwise provided herein, this act shall take effect July 1, 1986, and shall apply to all cases filed on or after July 1, 1986.

Senators Jenne, Crawford, Hair, Kirkpatrick and Langley offered the following amendments to Amendment 1 which were moved by Senator Hair and adopted:

Amendment 1A—On page 10, line 4, strike “*paragraph (b)*” and insert: *paragraphs (b) and (c)*

Amendment 1B—On page 18, lines 6-8, strike “and having experienced no increase in losses for a period of 1 year or the period the plan was in effect, whichever is longer” and insert: and, if required by the insurer or insurer group, having experienced no increase in losses during the final compilation year

Amendment 1C—On page 23, line 5, strike “section” and insert: subsection

Amendment 1D—On page 58, lines 24 and 25, strike “may be accepted within 60 days after filing of the suit, but” and insert: shall not be made until 60 days after filing of the suit, and

Amendment 1E—On page 63, lines 8-30; on page 64, lines 1-31; on page 65, lines 1-31; and on page 66, lines 1-9, strike all of said lines and insert:

Section 47. Collateral sources of indemnity in civil actions.—

(1) In any action for damages, whether in tort or in contract, in which liability is admitted or is determined by the trier of fact and damages are awarded to compensate the claimant for losses sustained, the court shall reduce the amount of such award by the total of all amounts paid to the claimant from all collateral sources which are available to him; however, there shall be no reduction for collateral sources for which a subrogation right exists. Upon a finding of liability and an awarding of damages by the trier of fact, the court shall receive evidence from the claimant and other appropriate persons concerning the total amounts of collateral sources which have been paid for the benefit of the claimant or are otherwise available to him. The court shall also take testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of, the claimant or members of his immediate family to secure his right to any collateral source benefit which he is receiving, and shall offset any restriction in the award by such amounts.

(2) For purposes of this section:

(a) “Collateral sources” means any payments made to the claimant, or on his behalf, by or pursuant to:

1. The United States Social Security Act; any federal, state, or local income disability act; or any other public programs providing medical expenses, disability payments, or other similar benefits.

2. Any health, sickness, or income disability insurance; automobile accident insurance that provides health benefits or income disability coverage; and any other similar insurance benefits, except life insurance benefits available to the claimant, whether purchased by him or provided by others.

3. Any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the claimant for damages sustained as a result of which suit is filed, including costs of hospital, medical, dental, or other health care services.

4. Any contractual or voluntary wage continuation plan provided by employers or any other system intended to provide wages during a period of disability.

5. Any property, casualty, surety, or other type of insurance, except life insurance benefits available to the claimant, whether purchased by him or provided by others.

(3) In the event that the fees for legal services provided to the claimant are based on a percentage of the amount of money awarded to the claimant, such percentage shall be based on the net amount of the award as reduced by the amounts of collateral sources and as increased by insurance premiums paid.

(4) Unless otherwise expressly provided by law, no insurer or any other party providing collateral source benefits as defined in subsection (2) shall be entitled to recover the amounts of any such benefits from the defendant or any other person or entity, and no right of subrogation or assignment of rights of recovery shall exist.

Amendment 1F—On page 68, line 19, strike “sections 626.9541, 626.753” and insert: paragraph (h) of subsection (1) of section 626.9541, section 626.753

Amendment 1G—On page 75, strike all of lines 23-28 and insert:

Section 52. The Legislature declares that the provisions of this act are interrelated to the extent that no section of this act would have been adopted in the absence of the remainder of this act. Therefore, if any section of this act is found, in its entirety, to violate the State Constitution or the United States Constitution, the remainder of the act shall not be given effect and, to the extent described in this section, the provisions of this act are declared not to be severable.

Senator Hair moved the following amendments to Amendment 1 which were adopted:

Amendment 1H—On page 71, line 3, strike “insurers” and insert: authorized insurers

Amendment 1I—On page 72, strike all of lines 6-8 and insert: including justification for all adjustments. The department

Amendment 1J—On page 68, strike all of lines 22-24

Senator Langley moved the following amendment to Amendment 1 which was adopted:

Amendment 1K—On page 66, line 17, strike the period (.) and insert: ; *provided, however, that the losing party's attorney is not personally responsible if he has acted in good faith, based on the representations of his client.*

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until final action on CS for CS for SB's 465, 349, 592, 698, 699, 700, 701, 702, 956, 977 and 1120.

Senator Vogt moved the following amendments to Amendment 1 which failed:

Amendment 1L—On page 59, line 27, strike “\$350,000” and insert: \$250,000

Senator Dunn presiding

The President presiding

Amendment 1M—On page 59, line 18, strike “\$500,000” and insert: \$250,000

Amendment 1 as amended was adopted.

Senators Jenne, Crawford, Hair, Kirkpatrick and Langley offered the following amendment which was moved by Senator Jenne:

Amendment 2—In title, on pages 1-5, strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance and civil actions; providing findings and purpose; creating s. 624.45, F.S.; authorizing certain participation of financial institutions in reinsurance and in insurance exchanges; amending s. 626.9541, F.S.; changing restrictions upon insurance dealings involving increased premiums; creating s. 626.595, F.S.; requiring disclosure of insurance commissions; amending s. 626.973, F.S.; excluding certain property or casualty insurance from provisions relating to fictitious groups; creating s. 627.0612, F.S.; providing for administrative hearings; specifying grounds for setting aside a final order of the Department of Insurance; amending s. 627.062, F.S.; changing factors to be considered by the Department of Insurance in reviewing rates; providing for orders; providing that certain violations

of provisions relating to unfair insurance trade practices violate rate provisions; creating s. 627.0625, F.S.; providing for risk management plans for commercial property insurance and commercial casualty insurance; requiring affected insurers to file information with the department; requiring insurers realizing an excessive profit to place the profits in a special fund and providing the use of such funds; amending s. 627.072, F.S.; limiting certain rate-making provisions to workers' compensation and employer's liability insurance; amending s. 627.331, F.S.; conforming rate-reporting provisions to the act; amending s. 627.351, F.S.; authorizing the department to adopt a joint underwriting plan for property and casualty insurance risk apportionment; creating a Risk Underwriting Committee; amending s. 627.356, F.S.; expanding provisions relating to professional liability self-insurance to cover certain professions in addition to law; providing for joint and several liability of members to the self-insurance trust fund; providing for review of rates; amending s. 627.357, F.S.; expanding the types of health care providers eligible to establish a medical malpractice risk management trust fund; expanding the entities which may be insured by the fund; providing for joint and several liability of members to the fund; providing for review of rates; creating s. 627.4133, F.S.; requiring certain insurers to notify insureds of cancellations, nonrenewals, or renewal premiums; creating s. 627.4205, F.S.; requiring insurers to issue coverage identification numbers to insureds; amending s. 627.421, F.S.; specifying a period by which insurance policies shall be delivered; creating s. 624.4365, F.S.; requiring disclosure with respect to self-insurance plans, funds, or programs; amending s. 629.50, F.S.; changing restrictions on formation of limited reciprocal insurers; amending s. 629.501, F.S.; conforming provisions relating to limited reciprocal insurers; amending s. 629.511, F.S.; changing restrictions of use of agents by limited reciprocal insurers; amending s. 629.513, F.S.; prohibiting excessive rates by limited reciprocal insurers; amending s. 629.517, F.S.; changing conditions of suspension or revocation of the certificate of authority of a limited reciprocal insurer; amending s. 629.519, F.S.; conforming provisions relating to conversion of limited reciprocal insurers; creating ss. 624.460, 624.462, 624.464, 624.466, 624.468, 624.470, 624.472, 624.473, 624.474, 624.476, 624.478, 624.480, 624.482, 624.484, 624.486, 624.488, F.S.; amending s. 517.051, F.S.; creating the Commercial Self-Insurance Fund Act; authorizing certain entities to form commercial self-insurance funds; requiring certificate of authority; specifying conditions for maintenance of certificate of authority; requiring annual reports; specifying liability of members; requiring approval of department for dividends; providing for assessments of members; providing for impaired funds; providing for use of agents; requiring approval of forms; prohibiting excessive, inadequate, or unfairly discriminatory rates; providing for designation of registered agent; providing for examination; specifying applicability of related laws; providing that certain insurance securities are exempt from registration requirements; providing findings and purpose; limiting joint and several liability to economic damages; providing for apportionment of damages; providing for recovery of noneconomic damages; limiting amount of noneconomic damages; requiring leave of court to plead punitive damages; providing for distribution of punitive damages; providing for offer of judgment and demand for judgment in civil actions; providing for periodic payments of future damages; providing for itemized verdicts; providing for notice of collateral sources of indemnity; amending s. 57.105, F.S.; providing for payment of attorney's fees; providing for a plan for mediation and arbitration of civil actions; creating the Academic Task Force for Review of the Insurance and Tort Systems; providing for membership, compensation, powers, and duties; providing confidentiality; providing for subpoenas; providing for reports; requiring a reduction of insurance rates; requiring certain reports; providing severability; providing an effective date.

WHEREAS, the Legislature finds that there is in Florida a serious lack of availability of many lines of commercial liability insurance, and

WHEREAS, the Legislature finds that professionals, businesses, and governmental entities are faced with dramatic increases in the cost of insurance coverage, and

WHEREAS, comprehensive reform is necessary to improve the availability and affordability of commercial liability insurance, and

WHEREAS, the Legislature finds that tort law and the liability insurance system are interdependent and interrelated, and

WHEREAS, the absence of insurance is seriously adverse to many sectors of Florida's economy, and

WHEREAS, the magnitude of this compelling social problem demands immediate and dramatic legislative action, NOW, THEREFORE,

Senators Jenne, Crawford, Hair, Kirkpatrick and Langley offered the following amendments to Amendment 2 which were moved by Senator Hair and adopted:

Amendment 2A—In title, on page 5, line 5, strike "severability" and insert: nonseverability

Amendment 2B—On page 4, line 25, strike "notice of"

Amendment 2 as amended was adopted.

On motion by Senator Jenne, by two-thirds vote CS for CS for SB's 465, 349, 592, 698, 699, 700, 701, 702, 956, 977 and 1120 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fox	Johnson	Peterson
Barron	Frank	Kirkpatrick	Plummer
Beard	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Neal	

Nays—1

Mann

Explanation of Vote

I voted for CS for CS for SB's 465, 349, 592, 698, 699, 700, 701, 702, 956, 977 and 1120 because I want to be on record for tort reforms. I believe strongly that our system needs reforms, and I want those reforms to be kept alive for consideration by the full Legislature this session. I have great concern about the arbitrariness of the rate reduction provision in the bill. I have always supported mandated rate roll-backs when tied to real reforms, but I believe we need more specific actuarial information prior to setting the level of the mandated rate roll-back.

Dempsey J. Barron, 3rd District

Conferees on HB 1380 Appointed

The President appointed Senators Neal, Chairman; Thomas, Gordon, Beard, Margolis, and alternate Jenne, Subcommittee A; Senators Castor, Peterson, Kirkpatrick, Grizzle, and alternate Thurman, Subcommittee B; Senators Mann, Hair, Langley, Fox, and alternate Stuart, Subcommittee C as conferees on HB 1380, subject to ratification.

Committee Meeting Change

On motion by Senator Jenne, the rules were waived and the Committee on Economic, Community and Consumer Affairs was granted permission to meet from 5:00 until 6:00 p.m. in lieu of 12:00 noon until 1:15 p.m. this day.

On motion by Senator Jenne, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet from 1:45 until 4:00 p.m. in lieu of 1:15 until 5:00 p.m. this day.

On motion by Senator Jenne, the rules were waived and the Committee on Appropriations was granted permission to meet from 2:15 until 5:00 p.m. in lieu of 2:00 until 5:00 p.m. this day.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Neal, by two-thirds vote CS for SB 265, SB 503, CS for SB 516, CS for SB 590, Senate Bills 939, 1143, 1202 and CS for SB 1206 were withdrawn from the Committee on Appropriations.

On motions by Senator Jenne, by two-thirds vote SB 354 and CS for SB 1231 were withdrawn from the Committee on Governmental Operations.

On motions by Senator Jenne, by two-thirds vote Senate Bills 560, 758 and CS for SB 859 were withdrawn from the Committee on Rules and Calendar.

On motions by Senator Jenne, by two-thirds vote SB 692, CS for SB 1145 and CS for SB 1242 were withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Jenne, by two-thirds vote SB 1125 was withdrawn from the Committee on Transportation.

On motion by Senator Jenne, by two-thirds vote SB 1223 was withdrawn from the Committee on Health and Rehabilitative Services.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 21 was corrected and approved.

CO-INTRODUCERS

Senator Stuart—CS for SB 109

RECESS

Senator Jenne moved that the Senate stand in recess for the purpose of holding committee meetings and conducting other Senate business until Wednesday, May 28 at 9:00 a.m. The motion was adopted.

Pursuant to the motion by Senator Jenne, the Senate recessed at 1:31 p.m. to reconvene at 9:00 a.m., Wednesday, May 28.