



Journal of the Senate

Number 19

Wednesday, May 28, 1986

PRAYER

The following prayer was offered by the Rev. E. R. "Randy" Anderson, Chairman for Harmony Baptist Association, Trenton:

Our Father, we thank you this morning for the privilege that we have of living in this beautiful country and in this beautiful day. We thank you for these men and women who have dedicated themselves to the well-being of the people of the State of Florida and we pray that thou would give them a special consciousness of your presence in their lives and draw them very close to yourself. Use them to your glory.

Our Father, we thank you for all of the opportunities that are ours to express gratitude, one to the other, for the things that we have done and for the ways in which we have helped.

We pray now that you would help us to be mindful of each of the other, that we may be able to lift each other in these trials and perilous times. We remember for a moment the senator who has passed on. We pray thou would bless his family and draw them very close to yourself. We thank you for all of your goodness and we lean heavily upon your wisdom, knowing that the day will come when each one of us will give an account of ourselves unto thee. So we pray that you would guide us by your holy spirit's presence. Give us a consciousness of your love and great wisdom that we may be able to do that which you would have us to do. We pray in the name of Jesus. Amen.

The Senate pledged allegiance to the flag of the United States of America.

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—35:

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

Excused periodically: Senator Neal to work on the appropriations bill

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, May 28, 1986: SB 1237, CS for SB 192, CS for SB 137, SB 929, SB 508, SB 449, SB 681, CS for SB 776, SB 523, SB 210, SB 746, CS for SB 1241, SB 555, SB 1170, SB 1015, CS for SB 601, SB 534, SB 462, SB 421, CS for SB 522, SB 461, CS for SB 138, SB 575, SB 571, CS for SB 1247, SB 214, CS for SB 992, HB 65, SB 275, SB 152, SB 497

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Commerce recommends the following pass: CS for SB 603

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 1216

The Committee on Education recommends the following pass: HB 35, HB 52, HB 1004, HB 67, HB 1183 with 2 amendments, SB 727 with 10 amendments

The Committee on Finance, Taxation and Claims recommends the following pass: SB 276, CS for SB 433, SB 473, SB 805, SB 869, SB 950, SB 1031 with 3 amendments, SB 1085 with 1 amendment, CS for SB 1108 with 1 amendment, CS for CS for SB 1172, CS for SB 1177

The Committee on Governmental Operations recommends the following pass: SB 1135 with 3 amendments, CS for SB 1210

The Committee on Health and Rehabilitative Services recommends the following pass: SB 1271

The Committee on Judiciary-Civil recommends the following pass: HB 1194, SB 820, CS for SB 512

The bills contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Health and Rehabilitative Services recommends the following pass: CS for HB 332, SB 1036

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

The Committee on Education recommends the following pass: SB 797 with 2 amendments

The Committee on Transportation recommends the following pass: CS for HB 1104 with 8 amendments

The bills contained in the foregoing reports were referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 155

The Committee on Judiciary-Civil recommends the following pass: CS for SB 2, SB 1046, CS for HB 347

The Committee on Natural Resources and Conservation recommends the following pass: HB 11

The Special Master on Claims recommends the following pass: SB 355 with 1 amendment

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

The Committee on Natural Resources and Conservation recommends the following pass: SB 1198

The Committee on Transportation recommends the following pass: SB 750

The bills contained in the foregoing reports were referred to the Committee on Governmental Operations under the original reference.

The Committee on Education recommends the following pass: HB 1046

The Committee on Judiciary-Criminal recommends the following pass: SB 1065 with 3 amendments

The bills contained in the foregoing reports were referred to the Committee on Health and Rehabilitative Services under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 728

The bill was referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Commerce recommends the following pass: SB 430 with 1 amendment

The bill was referred to the Committee on Personnel, Retirement and Collective Bargaining under the original reference.

The Committee on Appropriations recommends the following pass: CS for SB 1256 with 4 amendments

The Committee on Commerce recommends the following pass: HB 685, HB 961

The Committee on Education recommends the following pass: HB 723

The Committee on Finance, Taxation and Claims recommends the following pass: SJR 171 with 2 amendments, SJR 836

The Committee on Judiciary-Civil recommends the following pass: CS for HJR 71, CS for HB 72, HCR 95

The bills contained in the foregoing reports were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Appropriations recommends the following pass: CS for SB 60 with 6 amendments, CS for SB 109 with 2 amendments, SB 269, CS for CS for SB 294 with 4 amendments, SB 475, SB 492 with 1 amendment, CS for SB 653, SB 735 with 4 amendments, SB 830, CS for SB 1030, CS for SB 1105 with 4 amendments, CS for SB 115, CS for SB's 377, 445 and 1088, CS for CS for SB 463 with 6 amendments, CS for SB 486, CS for CS for SB 554, SB 559, CS for SB 996, CS for SB's 999 and 742

The Committee on Commerce recommends the following pass: SB 966 with 1 amendment, CS for SB 1034

The Committee on Economic, Community and Consumer Affairs recommends the following pass: HB 957 with 3 amendments, SB 1058

The Committee on Education recommends the following pass: HB 10

The Committee on Finance, Taxation and Claims recommends the following pass: SB 524 with 3 amendments

The Committee on Governmental Operations recommends the following pass: HB 1187 with 1 amendment

The Committee on Judiciary-Civil recommends the following pass: HB 219, HB 256, HB 374, SB 146, SB 747 with 2 amendments, SB 937, SB 1072, HB 1174, HB 1193, CS for SB 393, SB 824, SB 1214 with 2 amendments

The Committee on Judiciary-Criminal recommends the following pass: HB 541 with 2 amendments

The Committee on Transportation recommends the following pass: HB 1091, HB 1331 with 1 amendment

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

The Special Master on Claims recommends the following not pass: CS for HB 191

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

The Committee on Education recommends a committee substitute for the following: SB 1211

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 932, SB 1098, CS for SB 600, CS for SB's 711 and 597, CS for SB 1118

The Committee on Judiciary-Civil recommends committee substitutes for the following: CS for SB 730, CS for SB 891, SB 1074

The Committee on Natural Resources and Conservation recommends a committee substitute for the following: SB 324

The bills with committee substitutes attached contained in the foregoing reports were 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 1228

The Committee on Education recommends a committee substitute for the following: SB 988

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Commerce under the original reference.

The Committee on Natural Resources and Conservation recommends a committee substitute for the following: SB 978

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

The Committee on Judiciary-Civil recommends a committee substitute for the following: SB 511

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

The Committee on Judiciary-Civil recommends a committee substitute for the following: SB 604

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

The Committee on Commerce recommends a committee substitute for the following: SB 821

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 775

The Committee on Natural Resources and Conservation recommends a committee substitute for the following: SB 986

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 427

The bill with committee substitute attached was referred to the Committee on Natural Resources and Conservation under the original reference.

The Committee on Appropriations recommends committee substitutes for the following: SJR 1018, CS for SJR's 54 and 3

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

The Committee on Appropriations recommends committee substitutes for the following: SB 116, SB 472, SB 644, CS for SB 613, CS for CS for SB 122, CS for SB's 432 and 281

The Committee on Commerce recommends committee substitutes for the following: SB 624, Senate Bills 415 and 418

The Committee on Economic, Community and Consumer Affairs recommends committee substitutes for the following: SB 895, SB 351, SB 403

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 1166

The Committee on Governmental Operations recommends a committee substitute for the following: CS for SB 604

The Committee on Judiciary-Civil recommends committee substitutes for the following: SB 383, SB 481, SB 1055

The Committee on Judiciary-Criminal recommends a committee substitute for the following: SB 983

The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

May 22, 1986

The Committee on Corrections, Probation and Parole requests an extension of 15 days for consideration of the following: Senate Bills 160, 562, 827, 1217, 1250; HB 276

The Committee on Economic, Community and Consumer Affairs requests an extension of 15 days for consideration of the following: Senate Bills 31, 140, 155, 180, 242, 257, 271, 278, 303, 321, 323, 335, 351, 360, 375, 390, 400, 403, 427, 429, 466, 471, 479, 480, 506, 532, 566, 599, 625, 633, 636, 646, 652, 654, 709, 715, 728, 753, 774, 786, 806, 856, 868, 877, 900, 904, 905, 906, 907, 908, 909, 910, 912, 913, 914, 938, 940, 941, 942, 945, 958, 960, 967, 972, 980, 1000, 1048, 1058, 1059, 1081, 1086, 1087, 1100, 1127, 1130, 1131, 1133, 1138, 1157, 1168, 1169, 1176, 1216, 1226, 1228, 1276; House Bills 96, 121, 123, 133, 149, 323, 480, 617, 788, 1175

The Committee on Natural Resources and Conservation requests an extension of 15 days for consideration of the following: Senate Bills 77, 94, 188, 189, 191, 324, 372, 379, 936, 978, 1097; HB 1147

May 26, 1986

The Committee on Education requests an extension of 15 days for consideration of the following: Senate Bills 20, 27, 102, 151, 169, 270, 289, 358, 365, 398, 474, 494, 502, 507, 518, 531, 553, 598, 606, 621, 634, 668, 677, 683, 722, 723, 727, 729, 756, 765, 769, 788, 796, 797, 801, 844, 896, 930, 949, 962, 985, 988, 1002, 1013, 1020, 1025, 1032, 1054, 1067, 1069, 1134, 1148, 1178, 1184, 1186, 1193, 1194, 1195, 1207, 1209, 1211, 1222, 1232, 1244; House Bills 10, 35, 52, 67, 716, 723, 763, 1004, 1046, 1183

The Committee on Finance, Taxation and Claims requests an extension of 15 days for consideration of the following: Senate Bills 136, 423, 426, 483, 587, 645, 655, 693, 953, 1179, 1215, 1227; House Bills 230, 258, 394, 940

May 27, 1986

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following: Senate Bills 680, 682, 1165, 1220, 1233; House Bills 182, 203, 267

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following: Senate Bills 44, 74, 80, 87, 104, 114, 125, 134, 162, 254, 290, 309, 331, 366, 412, 436, 440, 478, 542, 549, 563, 580, 610, 638, 674, 686, 690, 697, 755, 766, 819, 834, 853, 871, 915, 948, 974, 991, 1028, 1049, 1053, 1071, 1093, 1107, 1139, 1142, 1151, 1155, 1185, 1219; House Bills 28, 79, 80, 143, 300, 448, 628, 700, 813, 1244, 1246

INTRODUCTION AND REFERENCE OF BILLS

First Reading

SR 1325 was introduced and adopted May 20.

By Senator Fox—

SB 1326—A bill to be entitled An act relating to the School Board of Dade County; providing for the relief of Charles Miller, a minor, by and through his parents and next friends, Ralph and Linda Miller, to compensate for serious physical injury to Charles Miller while he was under the supervision of the School Board of Dade County; providing for the payment by the school board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master and the Committee on Finance, Taxation and Claims.

By Senator Thurman—

SB 1327—A bill to be entitled An act relating to the Marion County School District; providing for school system capital improvements; authorizing the district school board to issue bonds for the payment of the cost thereof; authorizing the school board to issue refunding bonds; providing for the payment of principal, premiums, and interest on such bonds from

racetrack funds and jai alai fronton funds accruing to Marion County and distributable to the school board or from any other funds of the school board legally available therefor; providing for the investment of the proceeds of the sale of bonds; authorizing the bonds as legal investments; providing that a referendum is not required to issue bonds; specifying project costs that may be financed by the bond proceeds; authorizing the board to issue bond anticipation notes prior to the issuance of bonds; providing for negotiability of bonds; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 1328 was introduced and adopted May 22.

SR 1329 was introduced and adopted May 21.

By Senator Castor—

SR 1330—A resolution commending the Forest Hills Spirit of the Forest Hills Youth Soccer League.

—was referred to the Committee on Rules and Calendar.

By Senator Castor—

SR 1331—A resolution commending Holly Pyles for her heroic conduct.

—was referred to the Committee on Rules and Calendar.

By Senator W.D. Childers—

SR 1332—A resolution honoring Mary Anne Cannon Hartwell on her forthcoming retirement.

—was referred to the Committee on Rules and Calendar.

By Senator Myers—

SCR 1333—A concurrent resolution designating "Mental Illness Awareness Week."

—was referred to the Committee on Rules and Calendar.

By Senator Johnson—

SR 1334—A resolution commending the Sarasota Concert Band and Tony Swain, its musical director, for outstanding cultural contributions to the state.

—was referred to the Committee on Rules and Calendar.

By Senator Grant—

SB 1335—A bill to be entitled An act relating to the Town of Brooker; amending section 3, Article I, section 1, Article V, and section 1, Article VI of the Charter of the Town of Brooker, Revised 1983; deleting requirement that officers other than the mayor and town councilmen must be residents and voters of the town; providing that the town clerk and town marshal may be elected or appointed as provided by ordinance; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senators Kirkpatrick, Thurman and Gordon—

SR 1336—A resolution honoring the Silver-Haired Legislature.

—was referred to the Committee on Rules and Calendar.

By Senators Meek, Girardeau, Thomas, Grant and Gordon—

SR 1337—A resolution saluting Alonzo Smith "Jake" Gaither, former head football coach at Florida A & M University.

—was referred to the Committee on Rules and Calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committees on Appropriations and Finance, Taxation and Claims and Senators Crawford, Castor and Neal—

CS for CS for SJR's 54 and 3—A joint resolution proposing an amendment to Section 6, Article VII of the State Constitution, relating to homestead tax exemptions.

By the Committee on Appropriations and Senators McPherson and Johnson—

CS for SB 116—A bill to be entitled An act relating to saltwater fisheries; amending s. 370.01, F.S.; defining the term "marine fish"; creating s. 370.0605, F.S.; providing for saltwater fishing licenses; providing fees; providing duties of tax collectors and the Department of Natural Resources; prohibiting certain unlawful uses of a saltwater fishing license; creating s. 370.0606, F.S.; providing for the appointment of subagents for the issuance and sale of saltwater fishing licenses; providing for the disposition of license fees; creating a Marine Resources Conservation Trust Fund; providing for a marine information system; creating additional positions and providing appropriations; providing an effective date.

By the Committees on Appropriations, Health and Rehabilitative Services and Judiciary-Civil and Senators Weinstein, Dunn, Kiser and Frank—

CS for CS for CS for SB 122—A bill to be entitled An act relating to guardianship; creating part IX of chapter 744, F.S.; creating the "Public Guardianship Act"; providing legislative intent; providing for the office of public guardian; providing for appointment and notification; providing for powers and duties; providing for costs of the office of public guardian; providing for the preparation of a budget; providing for procedures; providing for reports; providing for a surety bond; amending s. 744.351, F.S.; conforming language to the act; providing an appropriation; providing an effective date.

By the Committee on Natural Resources and Conservation and Senators Stuart and Kirkpatrick—

CS for SB 324—A bill to be entitled An act relating to water management districts; amending s. 373.536, F.S.; providing for reauthorization of fund expenditures; requiring the water management districts to adopt rules for isolated wetlands; designating the "Perry C. McGriff Channel"; providing for signs to be erected; providing an effective date.

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

CS for SB 351—A bill to be entitled An act relating to condominiums; amending ss. 718.401, 719.401, F.S.; providing for the application of certain options available to condominium leases governing recreational facilities or other common elements; prohibiting escalation clauses in certain condominium and cooperative leases; providing an effective date.

By the Committee on Judiciary-Civil and Senator Vogt—

CS for SB 383—A bill to be entitled An act relating to campaign financing; amending s. 106.29, F.S.; requiring disclosure of certain political party funds; amending s. 106.03(1), F.S.; requiring all political committees to file on state forms; repealing s. 106.07(8), F.S., relating to filings by certain political committees; amending s. 106.141, F.S.; providing fines for late filing by candidates; providing for notice; providing for appeal; providing for notice of repeated violation, failure to file after notice, and failure to pay the fine imposed; amending s. 106.29, F.S.; providing fines for late filing by state and county executive committees; providing for notice; providing for appeal; providing for notice of repeated violation, failure to file after notice, and failure to pay the fine imposed; amending ss. 106.25, 106.26, 106.265, F.S.; specifying when certain records and proceedings of the Division of Elections and the Florida Elections Commission relating to violations of campaign financing laws become public; providing that civil penalties may not be paid with campaign funds; providing an effective date.

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

CS for SB 403—A bill to be entitled An act relating to administrative procedure; amending s. 120.54, F.S.; prohibiting adoption, amendment or repeal of any rule by a state agency that would require additional expenditure by a local government unless the Legislature has designated how such expenditure shall be funded; providing an effective date.

By the Committee on Commerce and Senators Gordon and Neal—

CS for SB's 415 and 418—A bill to be entitled An act relating to motor vehicle insurance; creating s. 316.646, F.S.; requiring certain operators of motor vehicles to possess proof of maintenance of required security when operating a motor vehicle; providing for display of proof of maintenance of such security; providing noncriminal and criminal penal-

ties; amending s. 318.14, F.S.; authorizing proof of compliance in lieu of fines for violations in certain circumstances; amending s. 320.02, F.S.; requiring that insurance proof of purchase cards provide notice of the criminal penalty; amending s. 627.733, F.S.; requiring the Department of Highway Safety and Motor Vehicles to suspend the registration and operator's license of any owner or registrant upon receipt of a cancellation notice from an insurer; amending ss. 627.732, 627.733, F.S.; removing the exclusion of taxicabs and limousines from the definition of "motor vehicle" for purposes of such law; excluding taxicabs and limousines from the security requirements of such law; providing an effective date.

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

CS for SB 427—A bill to be entitled An act relating to surface water management; requiring counties and municipalities to establish surface-water-management standards, approve plans, and inspect and supervise construction of the surface-water-management facilities of each development; requiring a development surface-water-management system to be dedicated to a water control district, municipality, or county; granting assessment power to the local authorities; allowing a property owners' association to operate such a system; amending s. 298.01, F.S.; providing procedures for the formation of water control districts; creating s. 298.02, F.S.; providing for establishment of water control district; amending s. 373.443, F.S.; providing immunity from liability to governmental entities, employees, and agents; amending s. 403.031, F.S.; providing definitions; providing an effective date.

By the Committees on Appropriations and Natural Resources and Conservation and Senators Hair and Neal—

CS for CS for SB's 432 and 281—A bill to be entitled An act relating to beach management; amending s. 161.021, F.S.; transferring regulatory powers of Division of Marine Resources under ch. 161, F.S., to the Division of Beaches and Shores; defining "beach renourishment" and "beach restoration" and other terms; amending s. 161.041, F.S.; placing restrictions on permits for construction of a coastal inlet jetty or excavation or maintenance of such an inlet; amending s. 161.053, F.S.; providing coastal construction and excavation regulation; amending s. 161.054, F.S.; providing liability for damage to sovereignty lands or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon; creating s. 161.088, F.S.; declaring public policy relating to beach erosion control and beach restoration and renourishment projects; amending s. 161.091, F.S.; providing for use of moneys in the Beach Management Trust Fund; amending s. 161.101, F.S.; providing for state and local participation in federally authorized projects and studies relating to beach management and erosion control; amending s. 161.131, F.S.; providing for statutory construction of ss. 161.011-161.212, F.S.; amending s. 161.141, F.S.; providing property rights of state and private upland owners in beach restoration project areas; creating s. 161.142, F.S.; declaring public policy relating to improved navigation inlets; regulating construction and maintenance dredging; requiring placement of sand on downdrift beaches; providing for a management plan to mitigate adverse impacts of coastal inlets on beaches; amending s. 161.161, F.S.; providing for a management plan; providing procedures for approval of projects; amending s. 161.26, F.S.; providing that local beach renourishment or restoration projects may not be undertaken without certain approvals; amending s. 253.03, F.S.; providing that the Board of Trustees of the Internal Improvement Trust Fund and other state agencies may levy a charge or attach a lien on materials dredged from certain lands; amending s. 315.03, F.S.; authorizing counties, port districts, port authorities, and municipalities to expend moneys to mitigate adverse impacts of inlets on beaches; amending s. 373.026, F.S.; providing powers and duties for the Department of Environmental Regulation with respect to plans or projects for coastal inlets; amending s. 403.813, F.S.; providing for the Board of Trustees of the Internal Improvement Trust Fund to fix a charge for the removal of material to create or maintain a coastal inlet; amending s. 403.8163, F.S.; providing for selection of sites for disposal of spoil from maintenance dredge operations; providing an effective date.

By the Committee on Appropriations and Senator Gordon—

CS for SB 472—A bill to be entitled An act relating to traffic control; amending ss. 316.003, 316.302, 316.545, 316.655, 316.70, F.S.; creating s. 316.3025, F.S.; providing definitions; providing rules and regulations for certain commercial vehicles; providing exceptions; providing limitations on the amount of time certain drivers may be on duty or drive; providing that no person under a certain age may operate a commercial motor vehicle; providing exceptions; providing penalties; providing for rules autho-

rising cooperative agreements; providing for enforcement; providing fines; providing for the attachment of a lien and foreclosure proceedings against certain commercial motor vehicle owners; providing for deposit of penalties; providing for review of contested penalties; providing for a Transportation Review Board; requiring that certain rules be consistent with federal regulations; providing an appropriation; providing an effective date.

By the Committee on Judiciary-Civil and Senator Kiser—

CS for SB 481—A bill to be entitled An act relating to the Administrative Procedure Act; amending s. 120.57, F.S.; prescribing requirements with respect to the signing of pleadings, motions, and other papers filed in certain proceedings under ch. 120, F.S.; providing for effect of a signature on such a paper; authorizing a hearing officer to impose an appropriate sanction for violation of the signing requirements, including ordering the violator to pay the other party's reasonable expenses, including attorney's fees; providing for a hearing as a matter of right in certain circumstances; providing an effective date.

By the Committee on Judiciary-Civil and Senators Kirkpatrick and Crenshaw—

CS for SB 511—A bill to be entitled An act relating to fines, civil penalties; amending ss. 316.660, 318.14, 318.15, 318.18, 318.20, 318.21, 401.113, 943.25, F.S.; providing disposition of fines and forfeitures collected for violations; providing a schedule for distribution of civil penalties and costs; removing certain additional fines and surcharges on fines for traffic infractions; increasing amount of civil penalties for noncriminal traffic infractions; extending time for payment of civil penalties; increasing court costs for persons who elect alternatives to fines for infractions; providing penalties for failure to comply with civil penalty or appear for noncriminal traffic infractions; providing for deposit of moneys in the Emergency Medical Services Trust Fund and the Criminal Justice Training Trust Fund; repealing s. 318.19(3), F.S., as amended, relating to mandatory hearings; providing an effective date.

By the Committees on Finance, Taxation and Claims and Commerce and Senator Crawford—

CS for CS for SB 600—A bill to be entitled An act relating to alcoholic beverages and tobacco; amending ss. 210.70, 561.12, F.S.; creating s. 561.025, F.S.; creating an Alcoholic Beverage and Tobacco Trust Fund; providing for deposit of specified funds therein; creating ss. 563.025, 564.025, F.S.; imposing a surtax on license fees for vendors of beer and wine; creating ss. 563.045, 564.041, F.S.; requiring brand registration for beer and wine; providing fees; providing a penalty; amending s. 565.09, F.S.; increasing the brand registration fee for spirituous liquors; amending s. 215.22, F.S.; authorizing a service charge deduction from the trust fund; amending s. 561.20, F.S.; including certain restaurants in certain counties within provisions relating to special liquor licenses; providing criteria for issuing a special alcoholic beverage license to a civic center; amending s. 561.32, F.S.; providing for the transfer of licenses under certain circumstances; providing for a fee; amending s. 563.06, F.S.; limiting required markings on malt beverage containers; prescribing the sizes of containers in which malt beverages may be sold or offered for sale at retail; providing an effective date.

By the Committee on Judiciary-Civil and Senator Jennings—

CS for SB 604—A bill to be entitled An act relating to judgments; amending s. 55.01, F.S.; requiring final judgments to include additional information identifying the judgment debtor; amending s. 55.505, F.S.; requiring affidavits for the recording of foreign judgments to include additional information identifying the judgment debtor and judgment creditor; providing an effective date.

By the Committees on Governmental Operations and Judiciary-Civil and Senator Jennings—

CS for CS for SB 604—A bill to be entitled An act relating to judgments; amending s. 55.01, F.S.; requiring final judgments to include additional information identifying the judgment debtor; amending s. 55.505, F.S.; requiring affidavits for the recording of foreign judgments to include additional information identifying the judgment debtor and judgment creditor; providing an effective date.

By the Committees on Appropriations and Commerce and Senator Hair—

CS for CS for SB 613—A bill to be entitled An act relating to securities transactions; creating the Securities Industry Standards Act of 1986; amending s. 20.12, F.S.; renaming the Division of Securities of the Department of Banking and Finance as the Division of Securities and Investor Protection; amending s. 517.021, F.S.; providing definitions with respect to the "Florida Securities and Investor Protection Act"; amending s. 517.051, F.S., relating to exempt securities, to include self-insurance agreements; amending s. 517.061, F.S., relating to exempt transactions, to correct a cross-reference; amending s. 517.07, F.S.; eliminating language with respect to permits in excess of 1 year for the sale of certain debt securities; amending s. 517.082, F.S.; providing for notification registration; amending s. 517.12, F.S., relating to the registration of dealers, associated persons, investment advisers, and branch offices; creating s. 517.122, F.S.; providing for arbitration; amending s. 517.161, F.S.; providing for restricted registration of dealers, investment advisers, or associated persons; providing additional grounds for denial, suspension, or restriction of registration; amending s. 517.221, F.S.; providing for cease and desist orders; amending s. 517.301, F.S.; defining the term "investment"; amending s. 517.302, F.S.; providing for criminal penalties, alternative fines, the creation of the Anti-Fraud Trust Fund, and a time limitation on criminal prosecutions; amending s. 517.311, F.S.; providing for required disclaimers; providing for review and repeal; providing an effective date.

By the Committee on Commerce and Senator Myers—

CS for SB 624—A bill to be entitled An act relating to the "Florida Home Equity Conversion Act"; amending s. 697.202, F.S., to transfer administration of the act from the Department of Community Affairs to the Department of Insurance; directing the Statutory Revision Division to make certain editorial changes to the Florida Statutes; amending ss. 697.203, 697.204, and 697.205, F.S.; extending the time period for mortgages issued under the act; revising language with respect to the term of the loan under the act; providing an effective date.

By the Committee on Appropriations and Senator Kirkpatrick—

CS for SB 644—A bill to be entitled An act relating to State University System funding; amending s. 240.271, F.S.; allowing the Board of Regents to reduce enrollment, on a pilot basis, at any state university with an approved plan to improve the quality of undergraduate education; repealing s. 240.271(5)(b), F.S., which allows the Board of Regents to reduce enrollment without reducing enrollment-based funding; providing an effective date.

By the Committees on Finance, Taxation and Claims and Commerce and Senators D. Childers and Hair—

CS for CS for SB's 711 and 597—A bill to be entitled An act relating to the Beverage Law; amending ss. 561.01, 561.37, 561.54, 562.15, 562.34, 562.41, 562.47, 563.02, 563.05, 564.01, 564.04, 564.06, 565.01, 565.08, 565.12, 567.001, 568.01, 568.07, F.S.; defining "alcoholic beverage" to mean a beverage containing not less than one-half of 1 percent of alcohol by volume, rather than more than 1 percent by weight; converting percentages of alcohol by weight to percentages by volume; clarifying definitions of "liquor" and "distilled spirits"; repealing s. 562.113, F.S., relating to the drinking age for active duty military personnel; amending s. 564.02, F.S.; defining authorized sales under beer and wine licenses; providing an effective date.

By the Committees on Judiciary-Civil and Judiciary-Criminal and Senator Weinstein—

CS for CS for SB 730—A bill to be entitled An act relating to juveniles; amending s. 39.14, F.S.; providing for a state right to appeal in juvenile cases; creating s. 39.145, F.S.; providing additional grounds for appeal by the state; creating s. 39.146, F.S.; stating requirements for the state when appellate court rules on the appeal; providing an effective date.

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

CS for SB 758—A bill to be entitled An act relating to the Uniform Community Development District Act of 1980; amending s. 190.012, F.S.; providing that zoological parks are included within the term "parks"; providing an effective date.

By the Committee on Health and Rehabilitative Services and Senator Grizzle—

CS for SB 775—A bill to be entitled An act relating to juveniles; amending s. 39.41, F.S.; providing for court approval of independent living arrangements for certain foster children; providing conditions; amending s. 409.165, F.S.; providing for Department of Health and Rehabilitative Services placement of a child in an independent living situation under certain conditions; authorizing use of state foster care funds for establishment of an independent living program for certain minors; providing procedures; creating s. 743.067, F.S.; providing for removal of disability of nonage for certain minors in foster care; providing conditions; providing for hearings and a judgment of emancipation; providing an effective date.

By the Committee on Commerce and Senator Fox—

CS for SB 821—A bill to be entitled An act relating to limitations of actions; amending s. 95.031, F.S.; deleting a limitation upon the initiation of actions for products liability and fraud; providing an effective date.

By the Committees on Judiciary-Civil and Judiciary-Criminal and Senators Hair and Grant—

CS for CS for SB 891—A bill to be entitled An act relating to criminal practices; amending ss. 16.53, 27.345, F.S.; providing a formula for distribution of a portion of moneys recovered by the Attorney General or a state attorney in a civil action under the act; creating ch. 772, F.S., to be known as the "Civil Remedies for Criminal Practices Act"; providing definitions; making unlawful the receipt of proceeds from certain criminal activities; requiring criminal intent; making unlawful the acquisition or maintenance through certain criminal activities of an interest in or participation in enterprises or real property; providing a civil cause of action to victims of certain criminal activities; providing for estoppel in certain civil actions against convicted persons; providing statute of limitations for certain civil actions; providing for suspension of statute of limitations under certain circumstances; providing for remedies to be nonexclusive; providing immunity from damages for governmental entities; providing for attorneys' fees to be taxed as costs; amending s. 812.035, F.S.; limiting a civil remedy to the state; amending s. 895.02, F.S.; defining "racketeering activity"; amending s. 895.05, F.S.; limiting a civil remedy to the state; clarifying right to jury trial; providing for priorities on forfeited properties; amending s. 895.09, F.S.; providing for distribution of a portion of funds obtained through forfeiture proceedings to counties and municipalities; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs—

CS for SB 895—A bill to be entitled An act relating to optometry; amending ss. 463.001, 463.002, 463.003, 463.005, 463.006, 463.007, 463.009, 463.012, 463.013, 463.015, 463.016, 463.018, 463.019, F.S.; reviving and readopting, notwithstanding scheduled repeals, chapter 463, F.S., relating to the regulation of optometry; providing legislative findings and purpose; providing definitions; providing conforming language; providing application and examination fees; providing continuing education requirements; prescribing conditions for the release of a contact lens prescription; proscribing certain acts and providing criminal penalties therefor; providing additional grounds for disciplinary action and administrative penalties; increasing administrative fines; providing for licensure by endorsement; providing for prospective application; creating s. 463.0055, F.S., providing for appropriate advice; repealing s. 463.014, F.S., relating to prohibited acts; providing for future repeal and legislative review; providing an effective date.

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

CS for SB 915—A bill to be entitled An act relating to public swimming and bathing facilities; 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; providing an effective date.

By the Committee on Finance, Taxation and Claims and Senators Jenne and Fox—

CS for SB 932—A bill to be entitled An act relating to hospitals; amending s. 119.07, F.S.; providing exemptions from public records act; amending s. 395.017, F.S.; granting access to patient records; amending s. 395.031, F.S.; relating to trauma centers and pediatric trauma referral centers; providing definitions; requiring emergency medical services pro-

viders to transport trauma victims to trauma centers; providing for emergency medical service provider's trauma transport protocols; requiring all licensed hospitals to participate in trauma registry; providing for application by a hospital as a trauma center; providing for review by the Department of Health and Rehabilitative Services of trauma center applications; providing for application by a hospital for renewal as a trauma center; providing for trauma center standards; requiring trauma centers to accept all trauma victims; prohibiting a facility that is not verified as a trauma center from holding itself out as such; providing for hospital trauma center inspections; providing penalties; providing for fees; authorizing promulgation of rules; requiring establishment of trauma regions; providing for verification of existing verified hospital trauma centers; creating s. 320.0801, F.S.; providing an additional vehicle license fee; providing for deposits into the Emergency Medical Services Trust Fund; requiring the Hospital Cost Containment Board and the department to make studies and reports on trauma care; requiring the department to develop a plan for air medical evacuation services; providing an effective date.

By the Committee on Natural Resources and Conservation and Senators Stuart, Frank, Kirkpatrick, Malchon and Mann—

CS for SB 978—A bill to be entitled An act relating to growth management; amending ss. 161.053, 161.054, 161.055, 161.56, 163.3167, 163.3177, 163.3178, 163.3184, 163.3187, 163.3191, 163.3202, 186.508, 186.511, 380.06, 380.07, 380.0651, 380.061, 627.351, F.S.; providing definitions relating to coastal zone protection; providing requirements for coastal zone construction; providing for local enforcement; providing for approval of vehicular traffic on certain coastal beaches; providing requirements for local government comprehensive plans; providing requirements for land development regulations; providing requirements for development orders; providing requirements and statewide guidelines and standards for developments of regional impact; providing for the Florida Land and Water Adjudicatory Commission; providing membership of the Quality Development Review; providing for plan amendments relating to Florida's Quality Developments; authorizing development agreements between local governments and developers; providing a short title and legislative intent; providing definitions; providing for applicability; requiring public hearings prior to entering into a development agreement; providing requirements for development agreements; specifying the duration of development agreements; providing for consistency with the comprehensive plan and land development regulations; providing for the application of subsequently adopted laws and policies to a development agreement; providing that a development agreement shall constitute an administrative act by a local government; providing for periodic review of a development agreement; providing for amendment or cancellation of a development agreement; requiring a development agreement to be recorded; providing for modification or revocation of a development agreement to comply with subsequently enacted state and federal laws; providing for enforcement; providing windstorm risk apportionment; providing an effective date.

By the Committee on Judiciary-Criminal and Senator Crenshaw—

CS for SB 983—A bill to be entitled An act relating to obscenity; amending ss. 847.011-847.08, F.S.; adding a definition section; revising the elements of the sale or distribution of harmful materials to a child, retail display of materials harmful to minors, and exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations; removing obsolete language; providing for the confiscation and destruction of obscene material; creating s. 847.0135, F.S.; creating the "Computer Pornography and Child Exploitation Prevention Act of 1986"; prohibiting the transmission of computer pornography involving minors; providing penalties; providing an effective date.

By the Committee on Natural Resources and Conservation and Senator Stuart—

CS for SB 986—A bill to be entitled An act relating to areas of critical state concern; creating ss. 380.0661-380.0675, F.S.; authorizing the creation of a land authority by county ordinance; providing for membership thereof; providing for an executive director and employees; providing powers of the land authority; providing priority for acquisitions of land; authorizing the issuance of bonds and providing requirements and procedures; requiring disclosure with respect to finder's fees; providing a penalty; limiting state and local government liability for bonds; requiring an annual report; prohibiting certain conflicts of interest by financial advisers; specifying tax exempt status of the land authority; creating s. 125.0108, F.S.; levying a tourist impact tax in areas of critical state concern on certain transient rentals, food sales, and admissions; authorizing

repeal or reenactment of the tax; providing for collection and administration; providing uses of tax revenue; providing penalties; providing for liens; transferring certain land in the Long Key State Recreational Area to Monroe County; requiring development of a pilot solid waste disposal facility and authorizing pledging of revenues by the land authority; directing the Department of Natural Resources to levy surcharges on admission to and overnight visits to state parks in areas of critical state concern; providing for use of proceeds; providing that taxes imposed by the act shall continue to be levied until repealed by the local government levying such tax; amending s. 380.0552, F.S., creating the "Florida Keys Area Protection Act"; providing legislative intent; designating an area of Monroe County as an area of critical state concern; providing for removal of such designation; providing for the application of certain land and water management laws; providing for the appointment and duties of a resource planning and management committee; providing principles for guiding development; providing for comprehensive plan elements and land development regulations; providing for modifications; creating s. 380.051, F.S.; providing for coordinated agency review of permit applications for projects in areas of critical state concern; providing an effective date.

By the Committee on Education and Senator Meek—

CS for SB 988—A bill to be entitled An act relating to education; amending s. 230.66, F.S., relating to the industry services training program; authorizing the Department of Education to lease or transfer title to equipment under its jurisdiction; exempting training programs contracted through the department from the provisions of chapter 119, F.S.; providing for review; providing an effective date.

By the Committee on Appropriations and Senators Neal, Stuart, Jenne, Gordon and Crawford—

CS for SJR 1018—A joint resolution proposing amendments to Section 9, Article IV of the State Constitution, relating to the Game and Fresh Water Fish Commission.

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

CS for SB 1026—A bill to be entitled An act relating to telephone companies; creating s. 364.339, F.S.; providing for shared tenant services; authorizing exclusive Florida Public Service Commission jurisdiction over this service; providing conditions under which the service may be authorized; exempting radio common carriers or cellular radio telephone carriers from commission regulation; providing for review and repeal; providing an effective date.

By the Committee on Judiciary-Civil and Senator Dunn—

CS for SB 1055—A bill to be entitled An act relating to mechanics' liens; amending s. 713.04, F.S.; providing for payment of certain contracts subject to a lien; providing an effective date.

By the Committees on Governmental Operations and Commerce and Senator Thurman—

CS for CS for SB's 1056 and 1080—A bill to be entitled An act relating to cemetery companies; amending s. 497.006, F.S.; revising criteria for determining the need for new cemeteries; deleting experience requirements for cemetery managers; amending s. 497.033, F.S.; modifying review provisions of cemetery company bylaws by the Department of Banking and Finance with respect to the requirements of ch. 120, F.S.; amending s. 497.044, F.S.; modifying proof of liability insurance requirements; authorizing the department to set minimum insurance coverage; creating s. 497.091, Florida Statutes; requiring owners of burial rights to keep cemeteries informed of their addresses; providing abandonment proceedings; providing procedures for the sale of abandoned burial rights and for the use of proceeds from such sales; providing for corresponding burial rights or refunds to the former owner of abandoned burial rights under certain circumstances; providing retroactivity; providing an exception; providing an effective date.

By the Committee on Judiciary-Civil and Senators Girardeau, Gersten, Castor, Gordon, Meek, Malchon and Mann—

CS for SB 1074—A bill to be entitled An act relating to legal assistance; creating the "Florida Law Endowment Act"; providing legislative intent; providing definitions; creating the Florida Law Endowment, a quasi-public, nonprofit corporation to provide certain legal assistance to the poor; requiring the endowment and certain other nonprofit corpora-

tions and associations to apply for federal tax exemptions; creating a board of directors for the endowment; providing powers and duties of the endowment; providing that meetings and records shall be open to the public; providing an effective date.

By the Committee on Finance, Taxation and Claims and Senators Malchon and Fox—

CS for SB 1098—A bill to be entitled An act relating to shelter and foster home parents; amending s. 402.181, F.S.; providing for restitution under the State Institutions Claims Fund for damages caused by shelter or foster children; creating s. 409.1751, F.S.; providing state liability protection to shelter and foster home parents; amending s. 768.28, F.S.; providing that certain persons associated with family foster homes or shelters are agents of the state for purposes of waiver of sovereign immunity; providing an effective date.

By the Committees on Finance, Taxation and Claims and Transportation—

CS for CS for SB 1118—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; providing that each district of the Department of Transportation be headed by a deputy assistant secretary; providing that the department advise the Legislative Auditing Committee of its determination that a recommendation of the Auditor General should be altered or not implemented; amending s. 163.803, F.S.; providing that for purposes of the Metropolitan Transportation Authority Act a metropolitan planning organization is an entity composed entirely of counties that have adopted the 4 cents of the 6-cent local option gas tax; amending s. 163.806, F.S.; deleting the prohibition against a metropolitan transportation authority expending tax revenues available to it to finance a bus system; amending s. 163.807, F.S.; deleting the requirement that a local government continue to fund a publicly owned transportation system after its acquisition by a metropolitan transportation authority; amending s. 163.816, F.S.; providing that if an entity created by general or special law is acquired by an authority all funding sources of such entity shall remain in effect and shall be administered as originally authorized; amending s. 163.818, F.S.; providing that a metropolitan transportation authority may also succeed to the rights, obligations, responsibilities, commitments and bonded indebtedness of certain transit authorities; providing that a referendum on the question of a transfer to a metropolitan transportation authority may also include transit systems; amending s. 207.002, F.S.; redefining the term "commercial motor vehicle" for purposes of tax on operation of commercial motor vehicles under ch. 207, F.S.; amending s. 316.076, F.S.; providing that the conduct of drivers approaching railroad-highway crossings be governed by s. 316.1575; amending s. 316.1575, F.S.; providing requirements for persons walking or driving a vehicle and approaching a railroad-highway crossing; amending s. 316.171, F.S.; requiring railroad companies to erect signs and other traffic control devices at crossings which conform to the provisions of s. 316.0745, F.S.; amending s. 316.515, F.S.; revising an exemption from vehicle length limitations; amending s. 316.545, F.S.; providing that a person who has been assessed a penalty for failure to have a valid vehicle registration certificate is not subject to a delinquent fee if a registration certificate is obtained within a certain time; amending s. 316.605, F.S.; providing that a truck of net weight greater than 10,000 pounds must display its license plate on the front of the vehicle; amending s. 320.01, F.S.; providing definitions; amending s. 320.02, F.S.; providing that odometer readings are not required to be reported on apportionable vehicles; amending s. 320.055, F.S.; prescribing vehicle registration renewal periods; amending s. 320.0605, F.S.; providing that the cab card for certain vehicles must be in the possession of the operator; amending s. 320.065, F.S.; providing for registration of semitrailers; amending s. 320.07, F.S.; providing that a person assessed a penalty pursuant to s. 316.545, F.S., for failure to have a valid vehicle registration certificate is not subject to a delinquent fee for failure to renew a registration; amending s. 320.0706, F.S.; providing that the owner of a truck of net weight more than 10,000 pounds must display the registration license plate on the front of the vehicle; amending s. 320.071, F.S.; providing that the owner of a currently registered apportioned vehicle may file for renewal 5 months preceding the date of expiration; amending s. 320.0715, F.S.; providing that designated authorized agents of the department may issue permits to motor carriers; requiring the department or its agents to charge a service charge for temporary operational permits; amending s. 320.0805, F.S.; providing that an owner of a vehicle registered under the International Registration Plan may not obtain a personalized prestige license plate; amending s. 320.26, F.S.; prohibiting the counterfeiting, alteration, or manufacture of certain permits; amending s. 320.37, F.S.; requiring foreign corporations,

certain for-hire vehicles, and commercial vehicles to comply with motor vehicle registration requirements; amending s. 330.30, F.S.; providing for the adjustment of the expiration date of an airport license; providing for prorated fees; amending s. 332.007, F.S.; providing for the advance funding of land acquisition costs at certain existing airports; amending s. 334.044, F.S.; authorizing the department to cooperate with the commission or authority of any other state; amending s. 335.141, F.S.; providing a definition of a public railroad-highway grade crossing; providing that the department and railroad companies are not liable for any action or omission in the development of the railroad-highway grade crossing hazard reduction program; requiring railroad companies maintaining public railroad-highway grade crossings to install traffic control devices upon notice from the department; requiring the railroad company or governmental entity performing construction or maintenance to notify the other party; requiring a local governmental entity or other public or private agency planning a public event that will cross a railroad track to give advance notice to the railroad company; amending s. 335.20, F.S.; providing for the announcement of the availability of funds; deleting the requirement that the department provide funding under the Local Government Transportation Assistance Act to those counties who have adopted each of the 6-cent local option taxes on motor fuel and special fuel; providing that a county may use any of the local option gas tax for matching purposes; amending s. 336.025, F.S.; providing that a county may pledge the revenues from the entire local option taxes; repealing the requirement for an extraordinary vote of the governing body in order to impose the third, fourth, fifth, and sixth cent local option tax; amending s. 336.026, F.S.; clarifying that the amount of the local option gas tax is 6 cents; amending s. 336.045, F.S.; providing that required curb ramps at intersections be in substantial conformance with the Uniform Federal Accessibility Standards; providing that the requirement is applicable to curb ramps let to contract after a certain date; amending s. 337.11, F.S.; providing that district deputy assistant secretaries may approve certain supplemental agreements; amending s. 337.14, F.S.; providing that an interim financial statement of a construction contract bidder is required under certain circumstances; providing that each required annual or interim financial statement be audited and accompanied by the opinion of a certified public accountant or a public accountant approved by the department; amending s. 338.221, F.S.; clarifying the definition of "turnpike improvement" for purposes of the Florida Turnpike Law; amending s. 338.223, F.S.; requiring a proposed turnpike project or turnpike improvement to be developed in accordance with the Florida Transportation Plan and the 5-year transportation plan and included in the transportation improvement plan of the affected metropolitan planning organizations; amending s. 339.08, F.S.; deleting the prohibition against the use of moneys in the State Transportation Trust Fund for economic development road projects; amending s. 341.061, F.S., relating to transit safety standards; amending s. 341.301, F.S.; providing definitions; amending s. 351.03, F.S.; requiring railroad companies to erect and maintain crossbuck grade crossing warning signs at all public or private railroad-highway grade crossings; requiring advance railroad warning signs and pavement markings to be installed and maintained at public railroad-highway grade crossings by the governmental entity having jurisdiction over or maintenance responsibility for the highway or street; repealing s. 316.158, F.S., relating to dangerous highway grade crossings; requiring the department to submit a decentralization plan by October 1, 1986; providing an effective date.

By the Committee on Governmental Operations and Senator Langley—

CS for SB 1149—A bill to be entitled An act relating to private investigative and patrol services and detection of deception; amending s. 493.30, F.S.; providing definitions; amending s. 493.301, F.S.; revising exceptions; amending s. 493.303, F.S.; providing for membership on the advisory council; amending s. 493.304, F.S.; clarifying classes of licenses; amending s. 493.305, F.S.; specifying additional application requirements and increasing eligibility to reapply for license as appropriate; amending s. 493.306, F.S.; clarifying and adding certain requirements of applicants for licensure; providing for license requirements and training criteria for unarmed private security guards; amending s. 493.308, F.S.; redefining the classes of branch office licenses and establishing license fees for private investigator interns, repossessor interns, firearms instructors and for examinations for firearms instructors; providing for payment of certain license fees within a specified period of time; amending s. 493.309, F.S.; clarifying medical certification for a Class "G" Statewide Gun Permit applicant; providing for the tolling of time when fingerprint cards are being processed through the Florida Department of Law Enforcement or the Federal Bureau of Investigation; amending s. 493.31, F.S.; including

certain classes of licenses under insurance requirements; requiring notification to the Department of State upon cancellation of the policy; providing for a combined single limit insurance policy; amending s. 493.311, F.S.; requiring biennial renewal of specified licenses; requiring posting of certain notices; amending s. 493.312, F.S.; abbreviating the procedures for change of location notification; amending s. 493.313, F.S.; clarifying requirements for notification of renewal and adding certain requirements for renewal of certain licenses; amending s. 493.314, F.S.; changing the procedures for cancellation of license and providing for an inactive license; amending s. 493.315, F.S.; clarifying eligibility for a statewide gun permit; amending s. 493.317, F.S.; changing the period of time within which a repossession must be reported; amending s. 493.318, F.S.; specifying property required to be maintained by the repossessor and providing for disposal of property under certain conditions; amending s. 493.319, F.S.; prescribing grounds for disciplinary action; amending s. 493.32, F.S.; clarifying that confidentiality of investigator-client communications does not affect any other privilege as deemed by law; amending s. 493.321, F.S.; limiting eligibility to reapply for license for persons who violate provisions of part I of ch. 493, F.S.; amending s. 493.322, F.S.; requiring licensees to retain certain records; authorizing the Department of State to enjoin unlicensed persons from operating; providing a record retention period; amending s. 493.323, F.S.; providing for access to criminal justice information by the Division of Licensing of the Department of State; creating s. 493.327, F.S.; providing confidentiality of certain information relating to licensees; creating s. 493.328, F.S.; providing for a periodic newsletter to the private investigative and patrol services industry; amending s. 493.561, F.S.; providing definitions; amending s. 493.562, F.S.; providing departmental authority to issue a special certification to certain examiners excluded from license requirements; amending s. 493.564, F.S.; providing for an advisory council; amending s. 493.565, F.S.; prescribing application requirements; amending s. 493.566, F.S.; providing additional qualifications for licensure; amending s. 493.567, F.S.; amending the requirements for reciprocity; amending s. 493.568, F.S.; clarifying requirements for detection examiner or detection of deception intern licensee's insurance; amending s. 493.569, F.S.; clarifying the requirements for a detection of deception intern license; providing authority to establish criteria for examiners to sponsor interns; amending s. 493.57, F.S.; establishing a fee for an examination; amending s. 493.571, F.S.; providing requirements for licensure of detection of deception schools and notification of change of associated licensees to the school; amending s. 493.573, F.S.; providing additional requirements for posting of license, change of location of licensee, and retention of records; amending s. 493.574, F.S.; providing criteria for renewal of detection of deception school licenses; amending s. 493.576, F.S.; granting enforcement authority to the Department of State; limiting eligibility to reapply for persons who violate provisions of part I of ch. 493, F.S.; creating s. 493.578, F.S.; providing for a periodic newsletter to the detection of deception industry; amending s. 493.579, F.S.; removing prior saving clauses; providing for cancellation or inactivation of license; providing for certain period repealing s. 493.326, F.S., relating to service of process by certain licensees; providing for review and repeal; providing an effective date.

By the Committee on Finance, Taxation and Claims and Senator Weinstein—

CS for SB 1166—A bill to be entitled An act relating to special assessments; amending s. 197.363, F.S.; requiring a public hearing for adoption of ad valorem special assessments; amending s. 200.068, F.S.; requiring that copies of ordinances or resolutions levying such special assessments accompany the certified statement of compliance; providing an effective date.

By the Committee on Agriculture and Senators Grant and D. Childers—

CS for SB 1206—A bill to be entitled An act relating to eggs and poultry; authorizing the Department of Agriculture and Consumer Services to impose fines and take other disciplinary action against certain persons for violations of the Florida seal of quality law; providing an effective date.

By the Committee on Education and Senator Grant—

CS for SB 1211—A bill to be entitled An act relating to public school finance; amending s. 236.081, F.S.; specifying funding for certain adult handicapped students; directing the Department of Education to conduct a study of the cost of providing educational programs to handicapped adults; amending s. 228.072, F.S.; including instruction for exceptional adult students in the adult general education program; providing an effective date.

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

CS for SB 1228—A bill to be entitled An act relating to consumer protection; requiring certain disclosures with respect to the retail sale of imported merchandise; providing for refunds or credit for merchandise sold without such disclosure; providing for injunction; requiring disclosure by insurance carrier for certain materials used as repair or replacement; providing an effective date.

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

CS for SB 1298—A bill to be entitled An act relating to Brevard County; relating to the formation of a dependent Special District within an area including a portion of the City of Palm Bay, the City of West Melbourne, and Brevard County; establishing the Water Control District of South Brevard; providing legislative intent; providing definitions; establishing the boundaries of the District; providing for a Board of Directors; establishing the powers and duties of the District; providing for levy of an annual user fee until ad valorem tax established; providing for the power to tax by ad valorem tax and to levy special assessments; providing for enforcement of such taxes and assessments; authorizing award of cost and attorneys' fees; providing for the issuance of revenue bonds and general obligations bonds; establishing initial operation and maintenance costs of the District and the method of payment; providing that obstruction of a drainage canal or watercourse is a criminal offense; providing for damages; providing for expansion or contraction of the boundaries of the District; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Crenshaw, by two-thirds vote SB 1253 was withdrawn from the committees of reference and indefinitely postponed.

On motion by Senator Fox, by two-thirds vote SB 279 was removed from the calendar and indefinitely postponed.

On motion by Senator Margolis, by two-thirds vote SB 385 was withdrawn from the committees of reference and indefinitely postponed.

On motion by Senator Jenne, the rules were waived and the Select Committee on Department of Community Affairs Growth Rule was granted permission to meet this day from 12:15 p.m. until 1:00 p.m.; the Committee on Economic, Community and Consumer Affairs from 4:30 p.m. until 6:00 p.m. to consider SB 180 and CS for SB 978; the Committee on Commerce, May 29 from 12:00 noon until 2:00 p.m., or upon adjournment, to consider Senate Bills 1212, 1123, 395, 794, 841, 1102, 1128, 1175, 1213, 997 and 282.

On motion by Senator Hair, the rules were waived and CS for SB 465 after being engrossed was ordered immediately certified to the House.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State Senate Bills 467, 541, 551, 716 and 847, which he approved on May 21, 1986; Senate Bills 243, 280, 322, 615, 923, CS for SB 848, and CS for SB 631, which he approved May 23; SB 1322 and CS for SB 203 which he approved May 27; and Senate Bills 581, 630, 803, 1129, 1200, 1268 and 1278, which became law without his signature on May 28.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed House Bills 107, 358, CS for HB 796, House Bills 916, 1003, 1120, 1151, 1158; has passed as amended CS for HB 40, House Bills 340, 696, 941, 967, 969, 1045, 1148, CS for HB 1344; HB 1380; has adopted HM 483 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Finance and Taxation and Representative Easley—

HB 107—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.295, F.S.; revising a provision for repeal of said section and providing for repeal of provisions which allow partial tax

abatement when residential buildings are destroyed by fire; specifying taxpayer's liability for prior years' taxes when property is acquired by an exempt governmental unit or for exempt use; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Representative Shackelford—

HB 358—A bill to be entitled An act relating to the City of Bradenton, Manatee County; repealing chapter 67-1121, Laws of Florida, as amended, relating to the Firemen's Pension Fund of the City of Bradenton, and allowing the act to be amended by ordinance of the City of Bradenton; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Governmental Operations and Representative Crady—

CS for HB 796—A bill to be entitled An act relating to state contracts; amending s. 287.058, F.S., providing an exemption from provisions which require a written agreement for procurement of certain contractual services; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Representatives Peeples and Arnold—

HB 916—A bill to be entitled An act relating to Lee County; providing for the issuance of a special alcoholic beverage license to a small destination resort complex within the City of Sanibel; providing for a definition of small destination resort complex; providing restrictions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Commerce; and Rules and Calendar.

By Representative Peeples and others—

HB 1003—A bill to be entitled An act relating to County Line Drainage District in Lee County; adding section 14 to chapter 67-723, Laws of Florida, relating to qualifications for members of the Board of Supervisors; providing an effective date; repealing chapters 67-723 and 81-408, Laws of Florida; abolishing the district and providing for assumption by the Board of County Commissioners of Lee County of the responsibility for the debts and obligations of the district and the operation and maintenance of the drainage control structures and systems of the district; providing that a municipal service taxing unit may be established by the board to assume such responsibility; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Combee and others—

HB 1120—A bill to be entitled An act relating to the City of Clearwater; providing that vendors of malt beverages containing alcohol of more than 1 percent by weight shall be subject to zoning; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Commerce; and Rules and Calendar.

By Representative Jennings and others—

HB 1151—A bill to be entitled An act relating to Sarasota County, the City of Sarasota; providing mooring requirements for boats anchored within the City of Sarasota; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

By Representative Tobiassen and others—

HB 1158—A bill to be entitled An act relating to the Pensacola-Escambia Promotion and Development Commission; amending subsection 11 of section 9 of chapter 80-579, Laws of Florida, as amended; pro-

viding the conditions under which real property may be sold and leased by the commission and repealing the section of the act that states if the purchaser ceases to utilize the property, title shall revert to the commission upon repayment of the purchase price to the purchaser; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Transportation and Representative Lippman and others—

CS for HB 40—A bill to be entitled An act relating to state uniform traffic control; amending s. 316.613, F.S., expanding the applicability of child restraint requirements to all persons transporting children in certain vehicles; deleting a defense; creating s. 316.614, F.S.; creating the "Florida Safety Belt Law"; providing legislative policy; providing definitions; requiring the operator and front seat passenger of certain motor vehicles to wear safety seat belts; providing exceptions; providing a penalty; authorizing verbal warnings; providing legislative intent; providing for a public awareness campaign; amending s. 318.18, F.S., providing a penalty; creating s. 627.0635, F.S., requiring insurers to reflect savings or other effects of required seat belt usage in rate filings; providing effective dates.

—was referred to the Committee on Commerce.

By Representative Messersmith—

HB 340—A bill to be entitled An act relating to the Lake Worth Downtown Development Authority, Palm Beach County; amending section 8 of chapter 72-592, Laws of Florida, as amended, providing for ad valorem taxation and increasing the tax rate from 1 mill on each dollar of tax base to 2 mills on each dollar of tax base to commence the fiscal year beginning October 1, 1986, following approval by referendum; repealing section 11(c) of chapter 72-592, Laws of Florida, providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Irvine—

HB 696—A bill to be entitled An act relating to Clay County; creating the Lake Asbury Municipal Service Benefit District; specifying boundaries; providing for membership, terms, powers, and duties of the Board of District Trustees; providing authorization to levy and collect ad valorem taxes, to levy special assessments, and to incur debts; limiting millage; providing for millage increase; specifying powers of Clay County with respect to the district; requiring the bonding of certain persons; requiring audits; providing severability; validating certain taxes collected on behalf of the district; limiting liability of the state and county; providing a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Lawson—

HB 941—A bill to be entitled An act relating to Franklin County; authorizing the Board of County Commissioners to enter into a lease for the operation of the George E. Weems Memorial Hospital, in Apalachicola, Florida; providing for maintenance of the level of indigent care; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Davis and others—

HB 967—A bill to be entitled An act relating to Hillsborough County local government and to municipalities within the county; amending ss. 3, 4, 5, 6, 7, 10, 12, 14, and 17 of chapter 75-390, Laws of Florida, as amended, the Hillsborough County Local Government Comprehensive Planning Act of 1975; revising and providing definitions; deleting obsolete dates and references to certain special districts; requiring the local planning agency to monitor, evaluate, and update the comprehensive plan; providing application and reference to part II of chapter 163, F.S., the Local Government Comprehensive Planning and Land Development

Regulation Act; providing responsibility of local planning agency in comprehensive planning program, including long-range, mid-range, and short-range planning, technical assistance, and other functions; requiring certain notice to specified property owners; expanding public participation in the comprehensive planning process; providing procedure for amendment of a land use designation or change in residential density on specified parcels of land; providing legal status of comprehensive plan; providing that redress for non-compliance shall be in addition to any remedies provided by general law; repealing ss. 8, 9, 11, 13, 15, and 16 of chapter 75-390, Laws of Florida, as amended, relating to required and optional elements of a comprehensive plan, surveys and studies, adoption of a comprehensive plan, evaluation and appraisal of a comprehensive plan, relationship of comprehensive plan to exercise of land regulatory authority, and cooperation by the Division of State Planning of the Department of Administration and regional planning agencies; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Carpenter and others—

HB 969—A bill to be entitled An act relating to Hillsborough County; amending the Civil Service Act of 1985; amending section 2 of chapter 85-424, Laws of Florida, clarifying that employees who are or become members of a bargaining unit as defined by chapter 447, F.S., and who are exempted from the classified service by virtue of the Civil Service Act of 1985, may not remain a part of the classified service; amending section 5 of chapter 85-424, Laws of Florida, clarifying the definition of "secretarial and clerical employees of the School Board"; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sansom—

HB 1045—A bill to be entitled An act relating to the Cape Canaveral Hospital District in Brevard County; amending sections 4(2), 6, 11 and 13 of chapter 59-1121, Laws of Florida, as amended; adding restrictions to a sale of the hospital facilities and requiring a referendum prior to sale; requiring that the Board of Directors or Trustees of any Lessee corporation serve on a voluntary basis without compensation; providing limitations on the ability of the members of the Hospital Board to serve as members of the Board of Directors or Trustees of any Lessee corporation; providing that the Hospital Board shall meet no less than annually; providing for public meetings by the Board of Directors or Trustees of any Lessee corporation save and except on certain delineated issues; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Mitchell—

HB 1148—A bill to be entitled An act relating to Jackson County; amending chapter 61-2290, Laws of Florida, as amended, authorizing the Board of Trustees of the Campbellton-Graceville Hospital Corporation to enter into contracts, agreements, or leases for the purpose of operating the Campbellton-Graceville Hospital and its facilities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Appropriations and Health Care and Insurance and Representative Simon and others—

CS for HB 1344—A bill to be entitled An act relating to tort reform and insurance; providing a short title; creating s. 624.45, F.S.; authorizing certain participation of financial institutions in reinsurance and in insurance exchanges; creating ss. 624.460-624.488, F.S.; authorizing the creation of commercial self-insurance funds; providing for certificates of authority and requirements therefor; providing continuing requirements; providing for annual reports; providing for members' liability; providing for dividends; providing for assessments; providing for deficiency assessments and providing powers to the Department of Insurance with respect to impaired commercial self-insurance funds; providing for use and licensure of agents; providing for filing, approval, and disapproval of forms;

providing for the making and use of rates; providing for agent registration; providing for examinations; providing for applicability of other laws; amending s. 517.051, F.S.; providing additional exemptions from securities registration provisions; amending s. 626.9541, F.S.; changing restrictions upon insurance dealings involving increased premiums and cancellations and nonrenewals; amending s. 626.973, F.S.; excluding certain property or casualty insurance from provisions relating to fictitious groups; 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 casualty insurance; providing an exemption from liability; 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 and advisory committees thereto; providing for recovery of deficits; providing eligibility for certain risks insured under certain federal provisions under certain circumstances; prohibiting the plan from writing certain coverage under certain circumstances; amending s. 627.3515, F.S.; expanding the membership of the market assistance plan to include certain insurance trade association representatives; amending s. 627.356, F.S.; expanding provisions relating to professional liability self-insurance to cover certain professions in addition to law; providing for liability of members to the self-insurance trust fund; providing for insolvency and providing powers of the department relating thereto; 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 liability of members to the fund; providing for insolvency and providing powers of the department relating thereto; providing for review of rates; creating s. 627.4133, F.S.; requiring certain insurers to notify insureds of cancellations, nonrenewals, or renewal premiums; providing extension periods; 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; amending s. 627.9126, F.S.; requiring certain liability insurers to report specified information to the Department of Insurance; 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; amending s. 624.307, F.S.; authorizing the Department of Insurance to employ actuaries; providing qualifications; providing an appropriation; repealing s. 768.48, F.S.; relating to itemized verdicts in medical malpractice actions; creating s. 768.301, F.S.; providing for itemized verdicts in personal injury and wrongful death actions; creating s. 768.303, F.S.; providing for remittitur and additur in such actions; creating s. 768.305, F.S.; providing pleading requirements for punitive damage claims in such actions; creating s. 768.307, F.S.; providing for collateral sources of indemnity; defining "collateral sources"; repealing s. 768.50, F.S.; relating to collateral sources in medical malpractice actions; creating s. 768.309, F.S.; providing for alternative methods of payment of damage awards; repealing s. 768.51, F.S.; relating to alternative methods of payment of damage awards in medical malpractice actions; creating s. 768.311, F.S.; providing for offer of judgment and demand for judgment; creating s. 768.313, F.S.; providing for an optional settlement conference in such actions; creating s. 768.315, F.S.; providing for limitation of damages with respect to noneconomic losses; creating s. 768.316, F.S.; providing a limitation on punitive damages in all civil actions; creating s. 768.317, F.S.; providing for determinations of comparative fault in personal injury and wrongful death actions; providing for proportional liability; providing for the apportionment of damages; providing for reallocation of uncollectible amounts; providing for applicability; providing exceptions; repealing s. 768.59, F.S.; removing provisions relating to joint and several liability and contribution in medical malpractice actions; amending s. 768.31, F.S.; relating to contribution among tortfeasors, to conform; creating s. 768.319, F.S.; providing applicability of certain provisions of the act; creating the Academic Task Force

for Review of Tort and Insurance Law; providing for membership and compensation; providing powers and duties; providing exemptions from provisions relating to administrative procedures; authorizing confidentiality agreements; providing for personnel and acquisition of services and commodities; providing exemptions; providing for a report to the Legislature; providing an appropriation; creating s. 627.9125, F.S.; requiring certain insurers to provide specified information to the Department of Insurance relating to liability claims and actions; providing certain confidentiality and use of such information; requiring commercial liability insurers to implement a special credit to reduce commercial liability insurance rates; providing for exceptions; requiring rate filings and providing for review; prohibiting cancellations or refusals to renew certain policies; providing exceptions; providing for future repeal of ss. 768.309, 768.315, 768.316, and 768.317, F.S.; amending s. 458.320, F.S., revising criteria for financial responsibility with respect to the practice of medicine; providing for applicability; providing exceptions to financial responsibility requirements; amending s. 459.0085, F.S., revising criteria for financial responsibility with respect to the practice of osteopathic medicine; providing for applicability; providing exceptions; amending s. 627.351, F.S., revising criteria for coverage with respect to medical malpractice risk apportionment; requiring the Florida Medical Malpractice Joint Underwriting Association to offer deficit assessment coverage to certain members of the Florida Patient's Compensation Fund; creating s. 627.6055, F.S., providing for rating classifications for medical malpractice insurance; creating s. 627.6057, F.S., providing that medical malpractice insurers are required to offer described coverage limits; providing for insurance rate reduction under certain circumstances; amending s. 768.13, F.S.; exempting from civil liability licensed physicians rendering certain emergency care; amending s. 90.705, F.S.; providing for certain disclosures of opinions of court-appointed or statutorily-required expert witnesses; providing for review and repeal; providing for severability; providing effective dates.

—was referred to the Committees on Commerce and Judiciary-Civil.

By the Committee on Appropriations and Representative Bell—

HB 1380—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 1986, and ending June 30, 1987, to pay salaries, other expenses, capital outlay - buildings and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—was referred to the Committee on Appropriations.

By Representative C. Brown—

HM 483—A memorial to the Congress of the United States, urging Congress to appropriate sufficient funds to allow Amtrak to continue to operate.

—was referred to the Committee on Rules and Calendar.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed House Bills 372, 930 and CS for HB 837 as amended.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 207, CS for SB 208, SB 241, CS for SB 399, Senate Bills 422, 464, 579, 667, 719, 785, 804, 833, 1317, 1318 and 1322.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment 1 to HB 750 and requests the Senate to recede.

Allen Morris, Clerk

HB 750—A bill to be entitled An act relating to the Lake Apopka Restoration Council; amending section 2 of chapter 85-148, Laws of Florida; increasing the membership of the council; specifying voting and nonvoting members; providing an effective date.

On motion by Senator Langley, the Senate receded from Amendment 1 to HB 750.

HB 750 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Dunn	Johnson	Plummer
Barron	Fox	Kiser	Scott
Beard	Frank	Langley	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Jenne	McPherson	Vogt
Deratany	Jennings	Peterson	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Gersten, Hill, Kirkpatrick, Neal

The Honorable Harry A. Johnston, II, President

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

CS for SB 179—A bill to be entitled An act relating to nursing home administrators; reviving and readopting, notwithstanding the Regulatory Sunset Act, ss. 468.1635-468.1775, F.S.; amending ss. 468.1635, 468.1645, 468.1655, 468.1665, 468.1685, 468.1695, 468.1705, 468.1715, 468.1725, 468.1735, 468.1755, F.S.; providing purpose; limiting scope of certain licenses; providing definitions; specifying membership of Board of Nursing Home Administrators; providing for cooperation with other regulatory boards; specifying educational requirements for licensure; restricting issuance of licenses to persons under investigation for certain offenses; providing procedures for licensure by endorsement; providing for reactivation of inactive licenses; providing for provisional licenses; providing for mental or physical examinations to determine whether specified grounds for discipline exist; creating s. 468.1756, F.S.; providing for a statute of limitation for filing administrative complaints; providing for future repeal and legislative review; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 30, strike everything after the enacting clause and insert:

Section 1. Section 468.1635, Florida Statutes, is amended to read:

468.1635 Purpose.—~~The Legislature finds that the unsafe and incompetent practice of nursing home administration poses a significant danger to the public health and safety. The Legislature finds further that it is difficult for the public to make informed choices about nursing home services and that the consequences of a wrong choice are serious.~~ The sole legislative purpose for enacting this chapter is to ensure that every nursing home administrator practicing in this state ~~meets~~ meet minimum requirements for safe practice. It is the legislative intent that nursing home administrators who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state.

Section 2. Section 468.1645, Florida Statutes, is amended to read:

468.1645 Administrator license required.—

(1) No nursing home in the state may operate unless it is under the management of a nursing home administrator who holds a currently valid license, provisional license, or temporary license licensed administrator or holder of a provisional license.

(2) Nothing in this part or in the rules and regulations adopted hereunder shall be construed to require an applicant for a license as a nursing home administrator, who is certified by a licensed facility operated by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical standards not in accord with the remedial care and treatment provided in such institutions. Any such license shall be endorsed to confine the licensee's practice to such institutions.

Section 3. Subsection (5) of section 468.1655, Florida Statutes, is amended to read:

468.1655 Definitions.—As used in this part:

(5) "Nursing home" means an institution or facility licensed as such under part I of a facility providing nursing services as defined in chapter 400.

Section 4. Section 468.1665, Florida Statutes, is amended to read:

468.1665 Board of Nursing Home Administrators; membership; appointment; terms.—

(1) The Board of Nursing Home Administrators is created within the Department of Professional Regulation and shall consist of seven members, to be appointed by the Governor, and confirmed by the Senate, to a term of 4 years or for a term to complete an unexpired vacancy.

(2) Three members of the board shall be licensed nursing home administrators. Two members of the board shall be health care practitioners from industries related to the delivery of health services. Two members of the board shall be lay persons who are not and have never been nursing home administrators or members of any health care closely related profession or occupation.

(3) Only board members who are nursing home administrators may have a direct financial interest in any nursing home.

~~(4) Within 30 days after June 30, 1970, the Governor shall appoint three members for a term of 4 years, three members for a term of 3 years, three members for a term of 2 years, and two members for a term of 1 year.~~

~~(5) As the terms expire the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the Florida State Board of Examiners of Nursing Home Administrators who are serving on the effective date of this act shall continue to serve as members of the Board of Nursing Home Administrators until their successors are appointed.~~

(4)(6) All provisions of chapter 455 relating to activities of regulatory boards shall apply.

Section 5. The introductory paragraph to and subsections (1) and (8) of section 468.1685, Florida Statutes, are amended to read:

468.1685 Powers and duties of board and department.—It is the function and duty of the board, as required by 42 U.S.C. s. 1396g(a), (b), and (e), and any of its legislative successors, together with the department, to:

(1) Make such rules not inconsistent with law as are may be necessary to carry out the duties and authority conferred upon the board by this part and as may be necessary to protect the health, safety, and welfare of the public.

(8) Set up procedures, by rule, for advising and acting together with the Department of Health and Rehabilitative Services and other boards of other health professions, the Board of Pharmacy, and the Board of Nursing in matters affecting procedures and methods for effectively enforcing the purpose of this part and the administration of chapter 400.

Section 6. Subsection (2) of section 468.1695, Florida Statutes, is amended, present subsection (3) of said section is renumbered as subsection (5) and amended, and new subsections (3), (4) and (6) are added to said section, to read:

468.1695 Licensure by examination.—

(2) Until October 1, 1988, the department shall examine each applicant who the board certifies has completed the application form and remitted an examination fee set by the board not to exceed \$250 and who:

- (a) Is 18 years of age or over;
- (b) Is a high school graduate or equivalent; and

(c)1. Has fulfilled the requirements of a 1-year nursing home administrator-in-training program which may be developed by rule of the board;

2. Has completed 2 years of college level studies which would prepare the applicant for health administration, to be further defined by rule;

3. Has obtained 2 years of practical experience in nursing home administration; or

4. Has 4 years of practical experience in a related health administration area.

(3) *Beginning October 1, 1988, the department shall examine each applicant who the board certifies has completed the application form and remitted an examination fee set by the board not to exceed \$250 and who is 18 years of age or over and:*

(a)1. *Has, at a minimum, earned a 2-year degree in health care administration from a university or college accredited by the United States Department of Education, the Council on Postsecondary Accreditation, or the Council on Postsecondary Education and has credit for at least 60 semester hours in subjects, as prescribed by rule of the board, which prepare the applicant for total management of a nursing home; and*

2. *Has fulfilled the requirements of a university-affiliated or college-affiliated internship in Nursing Home Administration or a 1,000-hour nursing home administrator-in-training program prescribed by the board; or*

(b)1. *Holds an Associate of Arts degree or the equivalent from an accredited college; and*

2.a. *Has fulfilled the requirements of a 2,000-hour nursing home administrator-in-training program prescribed by the board; or*

b. *Has 2 years of management experience allowing for the application of executive duties and skills, including the staffing, budgeting, and direction of resident care, dietary, and bookkeeping departments within a skilled nursing facility, hospital, hospice, adult congregate living facility with a minimum of 60 licensed beds, or geriatric residential treatment program and, if such experience is not in a skilled nursing facility, has fulfilled the requirements of a 1,000-hour nursing home administrator-in-training program prescribed by the board.*

(4) *Beginning October 1, 1992, the department shall examine each applicant who the board certifies has completed the application form and remitted an examination fee set by the board not to exceed \$250 and who:*

(a)1. *Holds a baccalaureate degree from an accredited college or university and majored in health care administration or has credit for at least 60 semester hours in subjects, as prescribed by rule of the board, which prepare the applicant for total management of a nursing home; and*

2. *Has fulfilled the requirements of a college-affiliated or university-affiliated internship in nursing home administration or a 1,000-hour nursing home administrator-in-training program prescribed by the board; or*

(b)1. *Holds a baccalaureate degree from an accredited college or university; and*

2.a. *Has fulfilled the requirements of a 2,000-hour nursing home administrator-in-training program prescribed by the board; or*

b. *Has 1 year of management experience allowing for the application of executive duties and skills, including the staffing, budgeting, and directing of resident care, dietary and bookkeeping departments within a skilled nursing facility, hospital, hospice, adult congregate living facility with a minimum of 60 licensed beds, or geriatric residential treatment program and, if such experience is not in a skilled nursing facility, has fulfilled the requirements of a 1,000-hour nursing home administrator-in-training program prescribed by the board.*

(5)(3) *The department shall issue a license to practice nursing home administration to any applicant who successfully completes the examination in accordance with this section and otherwise meets the requirements of this part. The department shall not issue a license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply.*

(6) *Any person who has been approved by the board to take the examination for a nursing home administrator's license or participate in an approved administrator-in-training program before the provisions of subsection (3) or subsection (4) take effect shall be exempt from qualifications specified therein.*

Section 7. Section 468.1705, Florida Statutes, is amended to read:

468.1705 Licensure by endorsement; temporary license.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board not to exceed \$250, demonstrates to the board that he:

(a) *Meets one of the following requirements:*

1. *Holds a valid active license to practice nursing home administration in another state of the United States, provided that, when the applicant secured his original license, the current requirements for licensure in that state are were substantially equivalent to, or more stringent than, current requirements, those existing in this state at that time; or*

2. *Meets the qualifications for licensure in s. 468.1695; and*

(b)1. *Has successfully completed a state, regional, or national examination which is substantially equivalent to, or more stringent than, the examination given by the department; and*

2.(b) *Has passed an examination on the laws and rules of this state governing the administration of nursing homes; and*

3. *Has worked as a fully licensed nursing home administrator for 2 years within the 5-year period immediately preceding the application by endorsement.*

(2) *National examinations for licensure as a nursing home administrator shall be presumed to be substantially equivalent to, or more stringent than, the examination and requirements in this state, unless found otherwise by rule of the board.*

(3) *The department shall not issue a license by endorsement or a temporary license to any applicant who is under investigation in this or another state for any act which would constitute a violation of this part until such time as the investigation is complete and disciplinary proceedings have been terminated.*

(4) *A temporary license may be issued one time only to an applicant who has filed an application for licensure by endorsement and has paid the fee for the next laws and rules examination offered in Florida, and who meets all of the following requirements:*

(a) *Has filed an application for a temporary license and paid a fee not to exceed \$250.*

(b) *Meets the requirements of s. 468.1695.*

(c) *Has worked as a fully licensed nursing home administrator for 2 years within the 5-year period immediately preceding application for a temporary license.*

A temporary license shall be valid for the nursing home administrator applicant only at the facility for which it is issued and shall not be transferred to another facility or to another applicant. An applicant shall not be eligible to reapply for a temporary license or an extension of a temporary license. The applicant must take and pass the next laws and rules examination offered in Florida following issuance of a temporary license. The temporary license is valid until the results of the examination are certified by the board and the applicant is notified.

Section 8. Subsection (5) of section 468.1715, Florida Statutes, is amended to read:

468.1715 Renewal of license.—

(5) *The board may by rule prescribe continuing education, not to exceed 40 90 hours biennially, as a condition for renewal of a license or certificate. The board shall by rule establish criteria for the approval of criteria for such programs or courses. The programs or courses shall be approved by the board shall include correspondence courses which meet the criteria for continuing education courses held in a classroom setting.*

Section 9. Section 468.1725, Florida Statutes, is amended to read:

468.1725 Inactive status.—

(1) *A license which has become inactive may be reactivated pursuant to this section s. 468.1715 upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reac-*

tivating a license shall not exceed 20 ~~12~~ classroom hours for each year the license was inactive, in addition to completion of the number of hours required for renewal on the date the license became inactive. Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for reactivation renewal of such license. Once a license expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the inactive license, the department shall give notice to the licensee at the licensee's last address of record.

(2) The board shall promulgate rules relating to application procedures for inactive status, ~~licenses which have become inactive and~~ for the renewal of inactive licenses, and for the reactivation of licenses. The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, and a fee for the reactivation of a license. Each of these fees shall be the same as the biennial renewal fee established by the board for an active license. ~~The board shall prescribe by rule a fee not to exceed \$50 for the reactivation of an inactive license and a fee not to exceed \$50 for the renewal of an inactive license.~~

(3) The department shall not reactivate a license unless the inactive licensee has paid an inactive status application fee, any applicable biennial renewal fee, and a reactivation fee.

Section 10. Section 468.1735, Florida Statutes, is amended to read:

468.1735 Provisional license.—~~In order to meet the requirement of 42 C.F.R. s. 431.710, or any of its legislative successors,~~ The board may establish, by rule, requirements for issuance of a provisional license. A provisional license shall be issued only to fill a position of nursing home administrator that unexpectedly becomes vacant due to illness, sudden death of the administrator, or abandonment of position, and shall be issued for one single period as provided by rule not to exceed 6 months. The department shall not issue a provisional license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply. The provisional license may be issued to a person who does not meet all of the licensing requirements established by this part, but the board shall by rule establish minimal requirements to ensure protection of the public health, safety, and welfare. The provisional license shall be issued to the person who is designated as the responsible person next in command in the event of the administrator's departure. The board may set an application fee not to exceed \$100 for a provisional license.

Section 11. Paragraphs (a), (b), (d), (k), and (l) of subsection (1) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

- (a) Violation of any provision of s. 468.1745(1) or s. 455.227(1).
- (b) Attempting to procure a license to practice nursing home administration by bribery, by fraudulent misrepresentation ~~misrepresentations~~, or through an error of the department or the board.
- (d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of nursing home administration or the ability to practice nursing home administration. Any plea of *nolo contendere* shall be considered a conviction for purposes of this part.
- (k) Repeatedly acting in a manner inconsistent with the health, and safety, or welfare of the patients of the facility in which he is the administrator.
- (l) Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where

the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

Section 12. Section 468.1756, Florida Statutes, is created to read:

468.1756 Statute of limitations.—An administrative complaint may only be filed pursuant to s. 455.225 for an act listed in s. 468.1755(1)(c) (p) within 4 years from the time of the incident giving rise to the complaint, or within 4 years from the time the incident is discovered or should have been discovered.

Section 13. Paragraph (c) is added to subsection (6) of section 468.302, Florida Statutes, to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(6) Requirement for certificate does not apply to;

(c) A person who is trained and skilled in cardiopulmonary technology, and who provides cardiopulmonary technology services at the direction, and under the direct supervision, of a licensed practitioner.

Section 14. Subsection (2) of section 468.1695, Florida Statutes, is hereby repealed effective October 1, 1988.

Section 15. Subsection (3) of section 468.1695, Florida Statutes, is hereby repealed effective October 1, 1992.

Section 16. Section 468.1775, Florida Statutes, is hereby repealed.

Section 17. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, part II of chapter 468, Florida Statutes, shall not stand repealed on October 1, 1986, and shall continue in full force and effect as amended herein.

Section 18. Part II of chapter 468, Florida Statutes, is repealed on October 1, 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 19. This act shall take effect October 1, 1986.

Amendment 2—On page 1, in the title, lines 1-26, strike the title and insert: A bill to be entitled An act relating to nursing home administration; revising part II of chapter 468, F.S.; amending s. 468.1635, F.S.; changing purpose; amending s. 468.1645, F.S.; providing for restrictive endorsement on certain licenses; amending s. 468.1655, F.S.; redefining "nursing home"; amending s. 468.1665, F.S.; changing the membership of the Board of Nursing Home Administrators; amending s. 468.1685, F.S.; providing for cooperation with other professional boards; amending s. 468.1695, F.S.; changing the qualifications for licensure by examination; amending s. 468.1705, F.S.; changing the qualifications for licensure by endorsement; providing for temporary licenses; amending s. 468.1715, F.S., relating to continuing education for license renewal; amending s. 468.1725, F.S.; changing provisions relating to inactive status and providing for certain fees; amending s. 468.1735, F.S.; providing restrictions upon the issuance of provisional licenses; amending s. 468.1755, F.S.; authorizing the Department of Professional Regulation to compel mental and physical examinations of licensees under certain circumstances; creating s. 468.1756, F.S.; providing a statute of limitations for certain disciplinary acts; providing for future repeal of s. 468.1695(2) and (3), F.S., which provide for phasing in certain licensure qualifications; repealing s. 468.1775, F.S., relating to reciprocity; amending s. 468.302, F.S., relating to radiologic technology; providing an exception to provisions restricting the use of radiation; saving part II of chapter 468, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

Senator Frank moved the following amendments which were adopted:

Amendment 1 to House Amendment 1—On page 14, strike all of lines 15-23 and renumber subsequent sections.

Amendment 2 to House Amendment 1—On page 14, strike all of lines 15-23 and renumber subsequent sections.

Amendment 1 to House Amendment 2—In title, on page 2, lines 2-5, after "reciprocity;" strike all of said lines through "radiation;"

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

CS for SB 179 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Frank	Malchon	Stuart
Barron	Grizzle	Mann	Thomas
Beard	Hair	Margolis	Thurman
Childers, W. D.	Jenne	McPherson	Vogt
Crenshaw	Jennings	Neal	Weinstein
Deratany	Johnson	Peterson	
Dunn	Kiser	Plummer	
Fox	Langley	Scott	

Nays—None

Vote after roll call:

Yea—Castor, Gersten, Hill, Kirkpatrick

The Honorable Harry A. Johnston, II, President

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

SB 596—A bill to be entitled An act relating to the public record exemption; amending s. 27.151, F.S.; continuing the exemptions from public record disclosure requirements provided for certain executive orders of the Governor, orders of the Supreme Court, and reports to the Legislature; requiring future legislative review of such exemptions pursuant to the Open Government Sunset Review Act; providing for disclosure of an executive order of the Governor; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 15, strike everything after the enacting clause and insert:

Section 20. Section 27.151, Florida Statutes, is amended to read:

27.151 Confidentiality; report to Legislature.—

(1) *Notwithstanding the provisions of s. 119.14, if the Governor provides in an executive order issued pursuant to s. 27.14 or s. 27.15 that the order or a portion thereof is confidential, the order or portion so designated, the application of the Governor to the Supreme Court and all proceedings thereon, and the order of the Supreme Court shall be confidential and exempt from the provisions of s. 119.07.*

(2) *The Governor shall base his decision to make an executive order confidential on the criteria set forth in s. 119.14.*

(3) *To maintain the confidentiality of the executive order, the state attorney, upon entering the circuit of assignment, shall immediately have the executive order sealed by the court prior to filing it with the clerk of the circuit court. The Governor may make public any executive order issued pursuant to s. 27.14 or s. 27.15 by a subsequent executive order, and at the expiration of a confidential executive order or any extensions thereof, the executive order and all associated orders and reports shall be open to the public pursuant to chapter 119 unless the information contained in the executive order is confidential pursuant to the provisions of chapter 39 or 415.*

(4)(2) The Governor shall submit to the President of the Senate and the Speaker of the House of Representatives before February 1 of each year a report specifying the state attorneys assigned or exchanged during the preceding calendar year and the dates of, and the reasons for, such assignments or exchanges. *Notwithstanding the provisions of s. 119.14, if the Governor designates all or any portion of this report as confidential, the portions so designated shall be confidential and exempt from s. 119.07 and other laws and rules requiring public access or disclosure.*

(5) *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 21. This act shall take effect October 1, 1986.

Amendment 2—On page 1, in the title, lines 2-12, strike all of said lines and insert: An act relating to state attorneys; amending s. 27.151, F.S., which allows an exemption from public records requirements for executive orders assigning state attorneys to other circuits and for reports to the Legislature thereon; saving such exemption from repeal; providing criteria for confidentiality; providing confidentiality procedures and specifying when an order may be disclosed; providing for future review and repeal; providing an effective date.

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

SB 596 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Langley	Scott
Barron	Girardeau	Malchon	Stuart
Beard	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Jenne	McPherson	Vogt
Deratany	Jennings	Neal	Weinstein
Dunn	Johnson	Peterson	
Fox	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Gersten, Hill, Kirkpatrick

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1069—

HB 1069—A bill to be entitled An act relating to Collier County; establishing and organizing a municipality to be known and designated as the City of Marco Island in said county; defining its territorial boundaries; providing for its government, jurisdiction, powers, franchises, immunities, privileges, and means for exercising the same; prescribing the general powers to be exercised by said city; providing for a referendum.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives requests the return of HB 1069.

Allen Morris, Clerk

On motion by Senator Mann, HB 1069 was returned to the House as requested.

SPECIAL ORDER

SB 1237—A bill to be entitled An act relating to livestock; amending s. 534.083, F.S.; requiring that information on an application for a livestock hauler's permit be under oath; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendments which were adopted:

Amendment 1—On page 1, line 8, insert:

Section 1. Subsection (5) of section 316.515, Florida Statutes, is amended to read:

316.515 Maximum width, height, length.—

(5) **IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS, SAFETY REQUIREMENTS.**—Any combination of up to and including three implements of husbandry including the towing power unit, and any single agricultural trailer with a load thereon not exceed-

ing 130 inches in width designed or adapted as agriculture cargo units, including the towing power unit, is authorized for the purpose of transporting peanuts, grains, soybeans, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, by a person engaged in the production of any such product, if such vehicle or combination of vehicles otherwise complies with this section. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, strike line 2 and insert: An act relating to traffic control; amending s. 316.515, F.S., providing that certain width limitations do not apply to specified agricultural vehicles; providing that certain vehicles be operated in accordance with safety requirements prescribed by law and Department of Transportation rules; amending s.

On motion by Senator Thomas, by two-thirds vote SB 1237 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Gersten, Hill, Kirkpatrick

On motion by Senator Thomas, the rules were waived and SB 1237 after being engrossed was ordered immediately certified to the House.

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 disputes; 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 cooper-

ative; 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 taken up, having been amended May 22.

Senators Margolis and Dunn offered the following amendment which was moved by Senator Margolis and adopted:

Amendment 4—On page 3, between lines 16 and 17, insert:

Section 1. Paragraph (e) is added to subsection (3) of section 194.011, Florida Statutes, to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the property appraisal adjustment board shall describe the property by parcel number and shall be filed as follows:

(e) A condominium or cooperative association, with approval of its board of administration, may file with the property appraisal adjustment board a single joint petition on behalf of any association members who give written consent to such a joint petition and who own parcels of property which the board of administration determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition.

Section 2. Subsection (1) of section 194.013, Florida Statutes, is amended to read:

194.013 Filing fees for petitions; disposition; waiver.—

(1) If so required by resolution of the property appraisal adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the property appraisal adjustment board in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. However, no such filing fee may be required with respect to an appeal from the disapproval of homestead exemption under s. 196.151 or from the denial of tax deferral under s. 197.253. Only a single filing fee shall be charged under this section as to any particular parcel of property, despite the existence of multiple issues and hearings pertaining to such parcel. For joint petitions filed pursuant to s. 194.011(3)(e), a single filing fee shall be charged. Such fee shall be calculated as the cost of the special master for the time involved in hearing the joint petition and shall not exceed \$5 per parcel.

Said fee to be proportionately paid by affected parcel owners.

Section 3. Subsection (6) is added to section 194.034, Florida Statutes, to read:

194.034 Hearing procedures; rules.—

(6) For purposes of hearing joint petitions filed pursuant to s. 194.011(3)(e), each included parcel shall be considered by the board as a separate petition. Such separate petitions shall be heard consecutively by the board. If a special master is appointed, such separate petitions shall all be assigned to the same special master.

(Renumber subsequent sections.)

Senator Margolis moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 3, after the semicolon (;) insert: amending s. 194.011, F.S.; allowing a condominium association to file with the property appraisal adjustment board a joint petition on behalf of certain association members; amending s. 194.013, F.S.; providing that the board may charge a fee for filing joint petitions based on costs; amending s. 194.034, F.S.; providing additional procedures for hearing joint petitions;

Senator Jenne moved the following amendments which were adopted:

Amendment 6—On page 91, line 1, insert:

Section 40. Section 718.302(1)(e), Florida Statutes, is hereby repealed.

Amendment 7—In title, on page 3, line 13, before "providing" insert: repealing ss. 718.302(1)(e), F.S.;

On motion by Senator Jenne, CS for SB 192 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Castor, Hill, Kirkpatrick

CS for SB 137—A bill to be entitled An act relating to mobile home parks; amending s. 723.003, F.S.; adding definitions; changes definition of "mobile home" to include mobile homes regardless of length; amending s. 723.004, F.S.; changing legislative intent; amending s. 723.011, F.S.; changing disclosure requirements; amending s. 723.012, F.S.; changing prospectus requirements; creating s. 723.0125, F.S.; providing for modification of prospectus; amending s. 723.031, F.S.; limiting conditions of lot rental increases; amending s. 723.032, F.S.; prohibiting certain costs as basis for rental increases; amending s. 723.033, F.S.; changing factors to be considered when determining unconscionability of lot rental agreement; amending s. 723.037, F.S.; changing lot rental increase procedure; amending s. 723.038, F.S.; providing for mandatory, nonbinding arbitration; amending s. 723.042, F.S.; limiting capital and permanent improvement; amending s. 723.058, F.S.; limiting certain entrance fee amounts; amending s. 723.059, F.S.; providing for transferability and renewal of lifetime leases; amending s. 723.061, F.S.; changing a park owner's rights upon electing to change land use; creating s. 723.0615, F.S.; prohibiting retaliatory conduct; amending s. 723.076, F.S.; providing for filing by a homeowners' association of a notice of right to exercise the purchase option; creating s. 723.084, F.S.; providing civil remedies; providing for venue; providing injunctive relief; repealing s. 723.083, F.S., relating to governmental action affecting removal of mobile home owners; providing an effective date.

—was read the second time by title.

Senator Langley moved the following amendments which were adopted:

Amendment 1—On pages 2-28, strike everything after the enacting clause and insert:

Section 1. Section 723.003, Florida Statutes, is amended to read:

723.003 Definitions.—As used in this chapter, the following words and terms have the following meanings unless clearly indicated otherwise:

(1) The term "division" means the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation.

(2) The term "lot rental amount" means all financial obligations, except user fees, which are required as a condition of the tenancy.

(3)(2) The term "mobile home" means a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(4)(3) The term "mobile home lot rental agreement" or "rental agreement" means any mutual understanding, or lease, or tenancy, whether oral or written, between a mobile home owner and a mobile home park owner in which the mobile home owner is entitled to place his mobile home on a mobile home lot for either direct or indirect remuneration of the mobile home park owner.

(5)(4) The term "mobile home owner" or "home owner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.

(6)(6) The term "mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

(7)(6) The term "mobile home park owner" or "park owner" means an owner or operator of a mobile home park.

(8)(7) The term "mobile home subdivision" means a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

(9) The term "pass-through charge" means the mobile home owner's proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities.

(10)(8) The term "unreasonable" means arbitrary, capricious, or inconsistent with this chapter.

(11) The term "user fees" means those amounts charged in addition to the lot rental amount for nonessential optional services provided by or through the park owner to the mobile home owner under a separate written agreement between the mobile home owner and the person furnishing the optional service or services.

(12) The term "discrimination" or "discriminatory" means that a homeowner is being treated differently as to the rent charged, the services rendered, or an action for possession or other civil action being taken by the park owner, without a reasonable basis for the different treatment.

Section 2. Subsection (4) of section 723.004, Florida Statutes, is amended to read:

(4) Nothing in this chapter shall be construed to prevent the enforcement of a right or duty under this section, s. 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s. 723.035, s. 723.037, s. 723.038, s. 723.061, s. 723.0615, s. 723.062, s. 723.063, or s. 723.081 by civil action after the party has exhausted its administrative remedies, if any.

Section 3. Subsections (1) and (3) of section 723.011, Florida Statutes, are amended to read:

723.011 Disclosure prior to rental of a mobile home lot; prospectus, filing, approval.—

(1)(a) In mobile home parks containing 26 or more lots, the park owner shall file a prospectus with the division. Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner shall deliver to the homeowner a prospectus approved by the division. This subsection shall not be construed to invalidate those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered on or before July 1, 1986, if the mobile home park owner had:

1. Filed a prospectus with the division prior to entering into the lot rental agreement;

2. Made a good faith effort to correct deficiencies cited by the division by responding within the time limit set by the division, if one was set; and

3. Delivered the approved prospectus to the mobile home owner within 45 days of approval by the division.

4. This paragraph shall not preclude the finding that a lot rental agreement is invalid on other grounds and shall not be construed to limit any rights of a mobile home owner or to preclude a mobile home owner from seeking any remedies allowed by this chapter, including a

determination that the lot rental agreement or any part thereof is unreasonable or unconscionable. ~~Every mobile home park owner of a park which contains 26 or more lots shall file a prospectus or offering circular with the division prior to entering into an enforceable rental agreement.~~

(b) The division shall determine whether the proposed prospectus or offering circular is adequate to meet the requirements of this chapter and shall notify the park owner by mail, within 45 days of receipt of the document, that the division has either approved the prospectus or offering circular or found specified deficiencies. *In the event the division does not approve the prospectus or advise the park owner of deficiencies within 45 days, the prospectus shall be deemed to be approved.*

~~(c) The division shall prepare a form prospectus which may be prepared and filed by park owners of mobile home parks in which fewer than 100 spaces are offered. The form shall provide for the same information as is required by s. 723.012 but shall allow for preparation by the park owner responding to questions or requests for specific information that is to be provided.~~

~~(c)(4)1.~~ Filings for mobile home parks in which lots have not been offered for lease prior to *June 4, 1984, the effective date of this chapter* shall be accompanied by a filing fee of \$10 per lot offered for lease by the park owner; *provided, that the fee shall not be less than \$100.*

2. Filings for mobile home parks in which lots have been offered for lease prior to the effective date of this chapter shall be accompanied by a filing fee as follows:

- a. For a park in which there are 26-50 lots: \$100.
- b. For a park in which there are 51-100 lots: \$150.
- c. For a park in which there are 101-150 lots: \$200.
- d. For a park in which there are 151-200 lots: \$250.
- e. For a park in which there are 201 or more lots: \$300.

(3) With regard to a tenancy in existence on *June 4, 1984 the effective date of this chapter*, the prospectus or offering circular offered by the mobile home park owner shall contain the same terms and conditions as the rental agreement ~~agreements~~ in effect on *June 4, 1984, and shall not change the lot rental agreement then in effect or increase the lot rental amount due under the lot rental agreement except in the manner provided in the lot rental agreement or the approved and delivered prospectus, or if not provided in the lot rental agreement or such prospectus, in a manner not inconsistent with the customs existing between the parties offered to all other mobile home owners residing in the park on the effective date of this act, excepting only rent variations based upon lot location and size, and shall not require any mobile home owner to install any permanent improvements.*

(4) *The mobile home park owner may request that the homeowner sign a receipt indicating that the homeowner has received a copy of the prospectus, the rules and regulations, and other pertinent documents so long as any such documents are clearly identified in the receipt itself. Such a receipt shall indicate nothing more than that the documents identified herein have been received by the mobile home owner. The receipt, if requested, shall be signed at the time of delivery of the identified documents. If the homeowner refuses to sign the receipt, the park owner shall still deliver to the homeowner a copy of the prospectus, rules and regulations and any other documents which otherwise would have been delivered upon execution of the receipt, however, the homeowner shall thereafter be barred from claiming that the park owner has failed to deliver such documents. The refusal of the homeowner to sign the receipt shall under no circumstances constitute a ground for eviction of the homeowner or of a mobile home or for the imposition of any other penalty.*

Section 4. Subsections (8), (9), (10), (11), (12), and (13) of section 723.012, Florida Statutes, are amended to read:

723.012 Prospectus or offering circular.—The prospectus or offering circular, which is required to be provided by s. 723.011, must contain the following information:

(8) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, cable television, water supply, and storm drainage, will be provided, ~~and~~ the person or entity furnishing them. *The services and the lot rental amount or user fees charged by the park owner for the services provided by the park owner shall also be disclosed.*

(9) An explanation of the manner in which *the lot rental amount rents and other charges* will be raised, including, but not limited to:

(a) Notification of the mobile home owner at least 90 days in advance of the increase.

(b) Disclosure of any ~~factors rate increases or pass-through of such increases~~ which may affect *the lot rental amount lot rental fees*, including, but not limited to:

1. Water rates.
2. Sewer rates.
3. Waste disposal rates.
4. Maintenance costs, *including costs of deferred maintenance.*
5. Management costs.
6. Property taxes.
7. Major repairs or improvements.
8. Any other fees, costs, entrance fees, or charges to which the mobile home owner may be subjected.

(c) *Disclosure of the manner in which the pass-through charges will be assessed.*

(10) *Disclosure of all user fees currently charged for services offered which the homeowner may elect to incur and the manner in which the fees will be increased.*

~~(11)(10)~~ *The park rules and regulations and an explanation of the manner in which park rules or regulations will be set, changed, or promulgated, including:*

~~(a) Current park rules or regulations in effect governing mobile home owners' behavior, guest procedures, and times for using recreational and other facilities and any other rules.~~

~~(b) The procedures pertaining to rule and regulation changes and adoption of new park rules or regulations.~~

~~(12)(11)~~ A statement describing the existing zoning classification of the park property and permitted uses under such classification.

~~(13)(12)~~ A statement of the nature and type of zoning under which the mobile home park operates, the name of the zoning authority which has jurisdiction over the land comprising the mobile home park, and, if applicable, a detailed description of any definite future plans which the park owner has for changes in the use of the land comprising the mobile home park.

~~(14)(13)~~ Copies of the following, to the extent they are applicable, as exhibits:

(a) The ground lease or other underlying leases of the mobile home park or a summary of the contents of the lease or leases when copies of the same have been filed with the division.

(b) A copy of the mobile home park lot layout showing the location of the recreational areas and other common areas.

(c) All covenants and restrictions and zoning which will affect the use of the property and which are not contained in the foregoing.

(d) A copy of the rental agreement or agreements to be offered for rental of mobile home lots.

Section 5. Subsections (3), (4), (5), (6), (7), (8), and (9) of section 723.031, Florida Statutes, are amended to read:

723.031 Mobile home lot rental agreements.—

(3) *The homeowner shall have no financial obligation to the park owner as a condition of occupancy in the park, except the lot rental amount. The parties may agree otherwise as to user fees which the homeowner chooses to incur. No user fees shall be charged by the park owner to the mobile home owner for any services or amenities which were previously provided by the park owner and included in the lot rental amount unless there is a corresponding decrease in the lot rental amount. The rental agreements offered by any mobile home park owner must be bona fide offers to rent for a specified term.*

(4) No rental agreement shall be offered by a park owner for a term of less than 1 year, and if there is no written rental agreement, no rental term shall be less than 1 year from the date of initial occupancy; however, ~~the an initial term tenancy~~ may be less than 1 year in order to permit the park owner to have all rental agreements within the park commence at the same time. Thereafter, all ~~terms tenancies~~ shall be for a minimum of 1 year.

(5) The rental agreement shall contain the ~~lot rental amount and of the rent, any security deposit, installation charges, fees, assessments, services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with s. 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. No lot rental amount may be increased during the term of the lot rental agreement except:~~

(a) When the manner of the increase is disclosed in a lot rental agreement with a term exceeding 12 months and which provides for such increases not more frequently than annually.

(b) Pass-through charges as defined in s. 723.003(9), ~~and any other financial obligations of the mobile home owner. However,~~

(c) For a tenancy in existence on May 1, 1986 ~~on the effective date of this act~~ and until the term of the existing rental agreement expires or any renewal or successive lease required by the terms thereof or by the terms of the prospectus to be offered by the park owner and which has been accepted by the mobile home owner expires, this provision shall not be construed to prevent the mobile home park owner from passing on to the mobile home owner as part of the lot rental amount, any costs, including any increased cost for taxes and utilities, if the passing on of such costs was allowed by law at the time the existing rental agreement was entered into and is not prohibited by the lot rental agreement. In the event that the mobile home owner does not accept the renewal or successive lease then the mobile home park owner may enter into another lot rental agreement consistent with and under the terms of this chapter. Nothing in this paragraph shall be construed to require an amendment to a prospectus, ~~which are incurred due to the actions of any state or local government.~~

(6) ~~No fee or charge other than a fee or charge set forth in the prospectus, if one is required, shall be charged by the park owner during the tenancy.~~

(6) Except for tenancies entered into prior to July 1, 1976, failure on the part of the mobile home park owner or developer to disclose fully all fees, charges, or assessments prior to the tenancy shall prevent the park owner or operator from collecting said fees, charges, or assessments and refusal by the mobile home owner to pay any undisclosed charges shall not be used by the park owner or developer as a cause for eviction in any court of law.

(7) No park owner may increase the lot rental amount until an approved prospectus has been delivered if one is required. This subsection shall not be construed to prohibit those increases in lot rental amount for those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered on or before July 1, 1986, if the mobile home park owner had:

(a) Filed a prospectus with the division prior to entering into the lot rental agreement;

(b) Made a good faith effort to correct deficiencies cited by the division by responding within the time limit set by the division, if one was set; and

(c) Delivered the approved prospectus to the mobile home owner within 45 days of approval by the division.

(d) This subsection shall not preclude the finding that a lot rental increase is invalid on other grounds and shall not be construed to limit any rights of a mobile home owner or to preclude a mobile home owner from seeking any remedies allowed by this chapter, including a determination that the lot rental agreement or any part thereof is unreasonable or unconscionable.

(8)(7) If a mobile home owner has deposited or advanced money on a rental agreement as security for performance of the rental agreement, which money is held in excess of 3 months by the mobile home park owner or his agent, such deposit shall be handled pursuant to s. 83.49.

(9)(8) No rental agreement shall provide for the eviction of a mobile home owner on a ground other than one contained in s. 723.061.

(10)(9) The rules and regulations ~~and the prospectus~~ shall be deemed to be incorporated into the rental agreement.

Section 6. Subsection (1) of section 723.032, Florida Statutes, is amended to read:

723.032 Prohibited or unenforceable provisions in mobile home lot rental agreements.—

(1) A mobile home lot rental agreement may provide a specific duration with regard to the amount of rental payments and other conditions of the tenancy, but the rental agreement shall neither provide for, nor be construed to provide for, the termination of any ~~tenancy rental agreement~~ except as provided in s. 723.061.

Section 7. Section 723.037, Florida Statutes, is amended to read:

723.037 Lot rental increases; reduction in services or utilities; change in rules and regulations; mediation or arbitration.

(1) A park owner shall give written notice to each ~~affected mobile home owner and the board of directors of the homeowners' association, if one has been formed,~~ at least 90 days prior to any increase in lot rental amount or lot rental increase, reduction in services or utilities provided by the park owner, or change in rules and regulations. The notice shall identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner shall make the names and addresses available upon request. Rules adopted as a result of restrictions imposed by governmental entities and required to protect the public health, safety, and welfare may be enforced prior to the expiration of the 90-day period but are not otherwise exempt from the requirements of this chapter. Pass-through charges must be separately listed as to the charge being levied. Notices of increase in the lot rental amount due to a pass-through charges shall state the additional payment and starting and ending date of the pass-through charges. The homeowners' association shall have no standing to challenge the increase in lot rental amount, reduction in services or utilities, or change of rules and regulations unless a majority of the affected homeowners agree, in writing, to such representation.

(2) A committee, not to exceed five in number, designated by a majority of the affected mobile home owners or, ~~if a homeowners' association has been formed,~~ by the board of directors of the homeowners' association if applicable, shall meet at a mutually convenient time with the park owner to discuss such change within 30 days of the notice ~~from the park owner to discuss the reasons for the increase in lot rental amount, reduction in services or utilities, or change in rules and regulations.~~

(3) Within 30 ~~15~~ days of the date of the scheduled meeting described in subsection (2), the home owners shall request that the dispute be submitted to mediation pursuant to s. 723.038 if a majority of the affected home owners, or ~~a majority of the affected~~ members of the homeowners' association if one has been established, have designated ~~stated~~, in writing, that:

(a) The rental increase is unreasonable;

(b) The rental increase has made the lot rental amount unreasonable;

(c)(b) The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or

(d)(e) The change in the rules and regulations is unreasonable.

(4) If both parties subsequently agree, they may request that the dispute be arbitrated rather than mediated.

(5) No action relating to a dispute described in this section may be filed in any court unless and until a request has been submitted to the division for mediation or arbitration and the request has been processed in accordance with s. 723.038.

(6) If a party refuses to agree to mediate or arbitrate, or fails to request mediation, upon proper request, that party shall not be entitled to attorneys' fees in any action relating to a dispute described in this section.

Section 8. Subsection (3) is added to section 723.041, Florida Statutes, to read:

723.041 Entrance fees; refunds; exit fees prohibited.—

(3) No entrance fee may be charged by the park owner to the purchaser of a mobile home situated in the park that is offered for sale by a resident of the park.

Section 9. Subsection (5) is added to section 723.059, Florida Statutes, to read:

723.059 Rights of purchaser.—

(5) Lifetime leases shall be nonassumable unless otherwise provided in the lot rental agreement or the transferee is the homeowner's spouse. The renewal provisions in automatically renewable leases are not assumable unless otherwise provided in the lease agreement.

Section 10. Paragraphs (a) and (d) of subsection (1) of section 723.061, Florida Statutes, are amended, subsection (2) of said section is added and present subsections (2) and (3) of said section are renumbered as subsections (3) and (4) respectively, to read:

723.061 Eviction; grounds, proceedings.—

(1) A mobile home park owner may evict a mobile home owner or a mobile home only on one or more of the grounds provided in this section.

(a) Nonpayment of lot rental amount ~~rent~~. If a mobile home owner fails to pay lot rental amount ~~rent~~ when due and if the default continues for 5 ~~3~~ days after delivery of a written demand by the mobile home park owner for payment of the lot rental amount ~~rent~~, the park owner may terminate the tenancy. However, if the mobile home owner pays the lot rental amount ~~rent~~ due, including any late charges, court costs, and attorney's fees, the court may, for good cause, deny the order of eviction, provided such nonpayment has not occurred more than twice.

(d) Change in use of the land comprising the mobile home park, or the portion thereof from which mobile homes are to be evicted, from mobile home lot rentals to some other use, provided all tenants affected are given at least 1 year's ~~6 months'~~ notice, ~~or longer if provided for in a valid rental agreement~~, of the projected change of use and of their need to secure other accommodations.

(2) In the event of eviction for change of land use, homeowners must object to the change in land use by petitioning for administrative or judicial remedies within 90 days of the date of the notice or they will be barred from taking any subsequent action to contest the change in land use. This provision shall not be construed to prevent any home owner from objecting to a zoning change at any time.

(a) Within 90 days from the time the park owner gives the 1-year notice, he shall notify the home owner of his election to either buy the mobile home, or relocate the mobile home to another park owned by the park owner, or pay to relocate the mobile home to another mobile home park, as follows:

1. Pay as damages, the actual cost, including setup fees, to move evicted mobile homes, with comparable and any required appurtenances, to a comparable mobile home park within a 50-mile radius of the mobile home park or other distance agreed upon by the park owner and mobile home owner. Since the amount of damages that a homeowner will suffer due to the change in land use by the park owner cannot be easily estimated and would be difficult and expensive to determine, it is the intent of the Legislature that the payment contained herein be considered in the nature of liquidated damages and not a penalty. It is the intent of the Legislature that the liquidated damages to which the mobile home owner is entitled be limited to the damages defined in this paragraph only for so long as this section remains in effect. The liquidated damages apply only to the harm incurred by the homeowner for having to relocate and this provision shall not preclude incidental damages that might occur in relocating the home; or

2. Purchase the mobile home and all appurtenances thereto at a value to be determined as follows:

a. A mutually agreed upon appraiser will assess the book value of the mobile home and cash value of all appurtenances thereto and the market value of the mobile home as situated immediately prior to the notice of change in land use. The NADA Mobile Home/Manufactured Housing Appraisal Guide shall be used as a guide for determining such value.

b. The homeowner will be entitled to the book value of the mobile home and cash value of the appurtenances, plus the following portion of the difference between the book value and cash value of the appurtenance and the market value of the mobile home.

If the homeowner has resided in the mobile home at the time of notice of land use change by the park owner at least, but not more than:

- 0 — 5 years — 40 percent
- 5 — 15 years — 60 percent
- 15 — 20 years — 80 percent
- Over 20 years — 100 percent

c. The homeowner who has become a resident of the park within 0-5 years of the notice of change in land use shall be entitled, in addition to the compensation set forth above, to 60 percent of the difference between the book value and the market value of the mobile home, or

d. Between the date of the appraisals referred to in this section and the delivery of title and possession of the mobile home and all appurtenances thereto to the park owner, the mobile home and the appurtenances shall be maintained by the homeowner in the condition existing on the date of the appraisals, ordinary wear and tear excepted.

c. Reach a mutually agreed upon settlement between the park owner and the homeowner.

(b) Either the mobile home owner or the park owner may apply to the circuit court in the county where the mobile home lot is located for purposes of selecting an appraiser to determine the value of the mobile home and appurtenances or for resolution of any other dispute arising under this section.

(c) In any dispute in a circuit court regarding the value of the mobile home as appraised pursuant to this section, the court shall determine the amount to be deposited into the registry of the court as will fully secure and fully compensate the homeowner as ultimately determined by the final judgment. The court shall fix the time within which and the terms upon which the homeowner shall be required to surrender possession and title to the park owner. The order of the court shall not become effective unless the deposit of the required sum is made in the registry of the court.

(d) The provisions of s. 723.083 shall not be applicable to any park where the provisions of this subsection apply.

(3)(2) A mobile home park owner applying for the removal of a mobile home owner or a mobile home, or both, shall file, in the county court in the county where the mobile home lot is situated, a complaint describing the lot and stating the facts that authorize the removal of the mobile home owner and the mobile home. The park owner is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar.

(4)(3) The delivery of any written notice required by this section shall begin on the date of postmark and be by certified or registered mail, return receipt requested, addressed to the mobile home owner at his last known address.

Section 11. Section 723.0615, Florida Statutes, is created to read:

723.0615 Retaliatory conduct.—

(1) It is unlawful for a mobile home park owner to discriminatorily increase a homeowner's rent or discriminatorily decrease services to a homeowner, or to bring or threaten to bring an action for possession or other civil action, primarily because the park owner is retaliating against the homeowner. In order for the homeowner to raise the defense of retaliatory conduct, the homeowner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which the park owner may not retaliate include, but are not limited to, situations where:

(a) The homeowner has in good faith, complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the mobile home park;

(b) The homeowner has organized, encouraged, or participated in a homeowners' organization; or

(c) *The homeowner has complained to the park owner for failure to comply with s. 723.022.*

(2) *Evidence of retaliatory conduct may be raised by the homeowner as a defense in any action brought against him for possession.*

(3) *In any event, this section shall not apply if the park owner proves that the eviction is for good cause. Examples of such good cause include, but are not limited to, good faith actions for nonpayment of the lot rental amount, violation of the rental agreement or of park rules, or violation of the terms of this chapter.*

Section 12. Section 723.076, Florida Statutes, is amended to read:

723.076 Incorporation; notification of park owner.—

(1) Upon receipt of its certificate of incorporation, the homeowners' association shall notify the park owner in writing of such incorporation and shall advise the park owner of the names and addresses of the officers of the homeowners' association by personal delivery upon the park owner's representative as designated in the prospectus or by certified mail, return receipt requested.

(2) *The homeowners' association shall file a notice of its right to purchase the mobile home park as set forth in s. 723.071. The notice shall contain the name of the association, the name of the park owner, and the address or legal description of the park. The notice shall be recorded with the clerk of the circuit court in the county where the mobile home park is located. Within 10 days of the recording, the homeowners' association shall provide a copy of the recorded notice to the park owner at the address provided by the park owner by certified mail, return receipt requested.*

Section 13. *The provisions of section 723.061(2), Florida Statutes, as amended herein, shall take effect upon becoming law and shall apply to all changes in land use for which notice was given by the park owner on or after May 1, 1986. Effective July 1, 1988, section 723.061(2), Florida Statutes, is hereby repealed.*

Section 14. Except as otherwise provided herein, this act shall take effect July 1, 1986.

Amendment 2—In title, on pages 1 and 2, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.003, F.S., providing definitions; amending s. 723.004, F.S., relating to enforcement of rights and duties under ch. 723, F.S.; amending s. 723.011, F.S., revising language with respect to disclosure prior to rental of a mobile home lot, the prospectus, filing, and approval; amending s. 723.012, F.S., providing additional requirements with respect to the prospectus or offering circular; amending s. 723.031, F.S., revising language with respect to mobile home lot rental agreements; amending s. 723.032, F.S., revising language with respect to the duration of a mobile home tenancy; amending s. 723.037, F.S., revising language with respect to lot rental increases; amending s. 723.041, F.S., prohibiting certain fees; amending s. 723.059, F.S., providing for the nonassumability of certain leases; amending s. 723.061, F.S., providing criteria for objections to changes in land use; creating s. 723.0615, F.S., prohibiting certain retaliatory conduct; amending s. 723.076, F.S., relating to incorporation; providing for the applicability of certain portions of the act; providing for future repeal of s. 723.061(1)(d), F.S., relating to eviction; providing an effective date.

On motion by Senator Langley, by two-thirds vote CS for SB 137 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Castor, Hill, Kirkpatrick, McPherson

On motion by Senator Langley, the rules were waived and CS for SB 137 after being engrossed was ordered immediately certified to the House.

SB 929—A bill to be entitled An act relating to the Broward County Expressway Authority; creating s. 348.25, F.S.; providing an exemption from taxation for property, revenues, and bonds of the authority; providing retroactivity; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote SB 929 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Castor, Hill, Kirkpatrick

On motion by Senator Weinstein, the rules were waived and SB 929 was ordered immediately certified to the House.

On motion by Senator Kirkpatrick—

HB 374—A bill to be entitled An act relating to elections; amending s. 103.101, F.S.; providing for the omission of a presidential candidate's name and his delegates' names from the presidential preference primary election ballot when such candidate is the only candidate of a political party for such office; providing an effective date.

—a companion measure, was substituted for SB 508 and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 374 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Vogt

SB 508 was laid on the table.

SB 449—A bill to be entitled An act relating to scholarships; amending s. 240.414, F.S.; providing exemption from out-of-state tuition fees for Latin American and Caribbean Basin Scholarship Program recipients; expanding eligibility requirements; authorizing appropriate administrative agencies to seek matching funds; 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 5, strike "Recipients of" and insert: *Students from Latin America and the Caribbean who receive scholarships from the federal government and*

On motion by Senator Peterson, by two-thirds vote SB 449 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	Frank	Jennings	Neal
Barron	Gersten	Johnson	Peterson
Beard	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crenshaw	Grizzle	Margolis	Thomas
Deratany	Hair	McPherson	Thurman
Dunn	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Kirkpatrick

On motions by Senator McPherson, by two-thirds vote HB 1022 was withdrawn from the Committees on Transportation, and Economic, Community and Consumer Affairs.

On motion by Senator McPherson—

HB 1022—A bill to be entitled An act relating to airports and air commerce; creating s. 331.20, F.S., authorizing counties which own and operate airports to expend funds for the purposes of publicizing, advertising, and promoting their airports and related facilities; providing an effective date.

—a companion measure, was substituted for SB 681 and read the second time by title. On motion by Senator McPherson, by two-thirds vote HB 1022 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Castor

SB 681 was laid on the table.

CS for SB 776—A bill to be entitled An act relating to nursing homes; amending s. 400.211, F.S., changing certification requirements for nursing assistants in nursing homes by the Department of Education; authorizing the department to deny, suspend, or revoke the certification of a nursing assistant in any nursing home; providing grounds therefor; amending s. 400.23, F.S.; changing the term of a superior rated license; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote CS for SB 776 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Castor, Deratany

On motion by Senator Grizzle, the rules were waived and CS for SB 776 was ordered immediately certified to the House.

SB 523—A bill to be entitled An act relating to motor vehicles; amending s. 320.0848, F.S.; providing for biennial renewal of the exemption entitlement parking permit for handicapped persons; revising permit specifications; providing for renewal decals; providing for fees and the disposition thereof; continuing certain existing permits; 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 Malchon and adopted:

Amendment 1—On page 1, line 29, and on page 2, line 15, strike “*biennially*” and insert: *annually*

Amendment 2—On page 3, strike all of lines 13-18 and renumber subsequent section.

Senator Plummer moved the following amendment which was adopted:

Amendment 3—On page 3, between lines 18 and 19, insert:

Section 3. (1) The Department of Highway Safety and Motor Vehicles shall, upon application, issue a temporary disability parking permit, valid for the period of time specified in the physician’s certificate, to any temporarily disabled person who is currently certified by a physician licensed under chapter 458 or chapter 459 or comparable licensing in another state as having temporary mobility problems which substantially impair his or her ability to ambulate. The physician’s certificate shall include the date on which the disability commenced and the date on which it is likely to end. An applicant may renew the permit an unlimited number of times so long as the renewal period begins before the date specified by the physician as the termination date of the disability.

(2) The parking permit shall have the words “PARKING PERMIT” across the upper portion, the international symbol of accessibility in a contrasting color in the center so as to be visible, a sequential audit number across the lower portion, and, in a highly conspicuous place, the expiration date. The parking permit shall be in a format readily distinguishable from the exemption entitlement parking permit and shall be displayed in the driver’s window of any vehicle used to transport the applicant.

(3) A fee of \$10 shall be paid by the applicant for the initial parking permit and \$5 for each renewal permit. Seven dollars and fifty cents from the proceeds of each initial temporary disability parking permit and \$2.50 from the proceeds of each renewal thereof, shall be deposited in the General Revenue Fund, and the tax collector of the county in which the fee was generated shall receive \$2.50 from the proceeds of each initial temporary disability parking permit or renewal thereof, to defray the expenses of administering this section.

(4) Any person who fraudulently obtains or unlawfully uses such a parking permit or who uses an unauthorized replica of such parking permit with the intent to deceive is guilty of a nonmoving traffic violation, punishable as provided in ss. 318.18(2) and 316.008(4), Florida Statutes.

Section 4. There is hereby appropriated \$80,808 and four positions from the General Revenue Fund in fiscal year 1986-1987 to the Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, in order to implement the provisions of section 3 of this act.

(Renumber subsequent section.)

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Malchon and adopted:

Amendment 4—In title, on page 1, line 3, strike “*biennial*” and insert: *annual*; and on line 8, strike “*continuing certain existing permits*,”

On motion by Senator Malchon, by two-thirds vote SB 523 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—1

Gordon

Vote after roll call:

Yea—Castor, Peterson

SB 210—A bill to be entitled An act relating to highway safety; creating s. 316.614, F.S.; providing a short title; providing legislative intent; providing definitions; requiring use of safety belts; providing exceptions; providing that persons with certain certified medical conditions need not wear safety belts; providing a fine; requiring state, county, and local law enforcement agencies and councils to conduct safety awareness campaigns; amending s. 318.18, F.S.; prescribing fines for violation of s. 316.613, F.S., relating to child restraint requirements, and s. 316.614, F.S., relating to safety belt requirements; creating s. 627.063, F.S.; requiring insurers to reflect certain information relating to increased safety belt use in this state in certain filings, schedules, or manuals; amending s. 316.613, F.S.; expanding the applicability of child restraint requirements to all persons transporting children in certain vehicles; deleting a defense; providing an effective date.

—was read the second time by title.

Ten amendments were adopted to SB 210 to conform the bill to CS for HB 40.

Pending further consideration of SB 210 as amended, on motion by Senator Stuart, by two-thirds vote CS for HB 40 was withdrawn from the Committee on Commerce.

On motion by Senator Stuart—

CS for HB 40—A bill to be entitled An act relating to state uniform traffic control; amending s. 316.613, F.S., expanding the applicability of child restraint requirements to all persons transporting children in certain vehicles; deleting a defense; creating s. 316.614, F.S.; creating the "Florida Safety Belt Law"; providing legislative policy; providing definitions; requiring the operator and front seat passenger of certain motor vehicles to wear safety seat belts; providing exceptions; providing a penalty; authorizing verbal warnings; providing legislative intent; providing for a public awareness campaign; amending s. 318.18, F.S., providing a penalty; creating s. 627.0635, F.S., requiring insurers to reflect savings or other effects of required seat belt usage in rate filings; providing effective dates.

—a companion measure, was substituted for SB 210 and by two-thirds vote read the second time by title.

Senators Langley and Myers offered the following amendment which was moved by Senator Langley and failed:

Amendment 1—On page 5, line 15, strike "New Section 6" and insert:

New Section Bathtub Safety Harnesses:

(1) Every bathtub or shower stall shall be equipped with a safety harness to be available for prospective users of said bathtub or shower stall.

(2) Said harness shall be securely anchored and have appropriate straps and buckles so as to be able to withstand a direct stress of 500 pounds.

(3) The Department of Community Affairs is authorized to promulgate such rules as are necessary to insure compliance with this section.

Senator Mann presiding

The President presiding

Senator Gersten moved the following amendment which failed:

Amendment 2—On page 5, line 30, insert:

Section 5. The Legislature declares that the enactment of section 2 of this act is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new passenger cars. This act shall be repealed immediately upon the date that the Secretary of the United States Department of Transportation determines to rescind the portion of the Federal Motor Vehicle Safety Standard 208 (49 CFR, Sec. 571.208) which requires the installation of automatic restraints in new private passenger motor vehicles; provided, however, that the provisions of section 2 of this act shall not be repealed if the Secretary's decision to rescind the aforementioned provisions of Standard 208 is not based, in any respect, on the enactment of this act.

(Renumber subsequent sections.)

Senator Deratany moved the following amendment which failed:

Amendment 3—On page 5, between lines 14 and 15, insert:

(11) This section does not apply to any person who has attained the age of 18 years and who has not been declared incompetent.

The vote was:

Yeas—11

Beard	Grant	Kiser	Scott
Crenshaw	Jennings	Langley	Vogt
Deratany	Johnson	Myers	

Nays—24

Mr. President	Frank	Jenne	Meek
Castor	Gersten	Kirkpatrick	Peterson
Childers, D.	Girardeau	Malchon	Stuart
Crawford	Gordon	Mann	Thomas
Dunn	Hair	Margolis	Thurman
Fox	Hill	McPherson	Weinstein

Senator D. Childers moved the following amendment which failed:

Amendment 4—On page 3, strike all of lines 13-21 and insert:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets and highways of this state. The term does not include:

1. A bus used for the transportation of persons for compensation.
2. A farm tractor or implement of husbandry.
3. A truck of a net weight of more than 5,000 pounds.
4. A motorcycle, moped or bicycle.

The vote was:

Yeas—17

Barron	Grant	Langley	Vogt
Beard	Grizzle	Myers	Weinstein
Childers, D.	Jennings	Peterson	
Deratany	Johnson	Scott	
Girardeau	Kiser	Thomas	

Nays—19

Mr. President	Fox	Jenne	Meek
Castor	Frank	Malchon	Plummer
Crawford	Gersten	Mann	Stuart
Crenshaw	Gordon	Margolis	Thurman
Dunn	Hair	McPherson	

Senator Plummer moved that the Senate reconsider the vote by which Amendment 4 failed. The motion failed and the vote was:

Yeas—19

Barron	Deratany	Kiser	Scott
Beard	Grant	Langley	Thomas
Childers, D.	Grizzle	Myers	Vogt
Childers, W. D.	Jennings	Peterson	Weinstein
Crenshaw	Johnson	Plummer	

Nays—20

Mr. President	Frank	Hill	Margolis
Castor	Gersten	Jenne	McPherson
Crawford	Girardeau	Kirkpatrick	Meek
Dunn	Gordon	Malchon	Stuart
Fox	Hair	Mann	Thurman

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until final action on CS for HB 40 and completion of House Messages.

On motion by Senator Stuart, by two-thirds vote CS for HB 40 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Frank	Jenne	McPherson
Beard	Gersten	Johnson	Meek
Castor	Gordon	Kiser	Plummer
Childers, D.	Grizzle	Malchon	Stuart
Dunn	Hair	Mann	Thurman
Fox	Hill	Margolis	Weinstein

Nays—15

Barron	Deratany	Kirkpatrick	Scott
Childers, W. D.	Girardeau	Langley	Thomas
Crawford	Grant	Myers	Vogt
Crenshaw	Jennings	Peterson	

Vote after roll call:

Nay—Neal

Yea to Nay—Beard, Kiser

SB 210 was laid on the table.

On motion by Senator Jenne, the rules were waived and CS for HB 40 was ordered immediately certified to the House.

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

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 with amendments—

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. 626.9541, 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 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 nonseverability; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 5-78, strike everything after the enacting clause and insert:

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 citizens of Florida are concerned with the increased cost of litigation and the need for a review of the tort and insurance laws, 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,

Section 1. *This act shall be known and may be cited as the "Tort Reform and Insurance Act of 1986."*

Section 2. *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 demand 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 3. 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 trusts, in addition to any reinsurance the underwriting member may transact. Nothing in this section shall be deemed to prohibit a financial institution from engaging in any presently authorized insurance activity.*

Section 4. 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 5. 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 s. 627.356 or s. 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 6. 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 7. 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, bylaws, or trust agreement which governs the operation of the fund. The constitution, bylaws, 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 10 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 8. 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(7). 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 9. 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, bylaws, or trust agreement of the fund.

Section 10. 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 11. 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 12. 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 and pursuant to this section 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 when necessary and appropriate 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 13. 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 an assessment as required by subsection (1), the department shall order the trustees to do so. If the deficiency is not sufficiently made up within 60 days of the date of the order, the fund shall be deemed insolvent and grounds shall be deemed to exist to proceed against the fund 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 14. 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 15. 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 approved 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 16. 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 inadequate or unfairly discriminatory.*

(2) *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.*

(3) *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.*

(4) *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.*

(5) *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.*

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

(7) *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).*

(8) *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 17. 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 18. 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 19. Section 624.488, Florida Statutes, is created to read:

624.488 *Applicability of related laws.—*

(1) *In addition to other provisions of the code cited in ss. 624.460-624.488, the following shall apply to commercial self-insurance funds:*

(a) *Sections 624.155, 624.308, 624.414, 624.415, 624.416(4), 624.501, and 624.418-624.4211, except s. 624.418(2)(f);*

(b) *Part II of chapter 625;*

(c) *Applicable sections of part VI of chapter 626 and s. 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (q), (u), (w), and (x);*

(d) *Sections 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).*

(2) *No section of the code not expressly and specifically cited in ss. 624.460-624.488 shall apply to commercial self-insurance funds.*

Section 20. 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 21. 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 provision shall not be construed to prohibit the collection of premiums for universal life policies or variable or indeterminate value contracts in accordance with the terms of said policies or contracts.*

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.

9.8. 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.

10.9. 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 22. 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, nonmembership, 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 23. 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 under one of the following procedures:*

1. *If the filing is made at least 60 days before the proposed effective date, and the filing is not implemented during the department's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the department shall initiate proceedings to disapprove the rate and so notify the insurer, or finalize its review within 60 days of receipt of the filing. Notification of the insurer by the department of its preliminary findings shall toll the 60-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the department does not issue notice to the insurer of its preliminary findings within 60 days of the filing.*

2. *If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the department to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).*

(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. Such investment income shall not include income from invested surplus. 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 the use of a positive underwriting profit allowance in the rates that will be compatible with a reasonable rate of return plus provisions for contingencies. The total of the profit and contingency factor as specified in the filing shall be utilized in any excess profits calculation. In promulgating such rules, the department shall in all instances adhere to and implement the provisions of this paragraph.*

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 cost of medical services, if applicable.*

8. *The adequacy of loss reserves.*

9. *The cost of reinsurance.*

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

11. Conflagration and catastrophe hazards, if applicable.

12. A reasonable margin for underwriting profit and contingencies.

13. 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) After consideration of the rate factors 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 consideration of the policyholder's 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.

7. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as rates reflect the differences with reasonable accuracy.

8. Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against.

(e) The Insurance Commissioner shall have the responsibility to ensure that rates for insurance are adequate. To that end, the department shall promulgate rules establishing standards defining inadequate rates on insurance. In the event that the department finds that a rate or rate change is inadequate, the department shall order that a new rate or rate schedule be thereafter filed by the insurer and shall further provide information as to the manner in which noncompliance of the standards may be corrected. When a violation of this provision occurs, the department shall impose an administrative fine pursuant to s. 624.4211.

(f) 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.

(g) 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.

(h) 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, for any "use and file" filing made in accordance with the provisions of subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate determined to be excessive be returned to such policyholder in the form of a credit or refund; provided, however, that any such order to return premiums shall be made only if the department initiates proceedings to disapprove the rate and issues notice to the insurer, or finalizes its review within 60 days of receipt of the filing. The issuance of notice to the insurer by the department of its preliminary findings shall toll the 60-day period during any such proceedings and subsequent judicial review.

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)(9) 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 24. 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, "commercial casualty insurance" means insurance as defined in s. 624.605, other than workers' compensation insurance and employer's liability insurance, but limited to coverage of commercial risks, and includes any policy which combines casualty and property coverage as defined in s. 624.604, including any policy that primarily provides property insurance. However, if separate rates are filed and justified for the casualty and property portions of the coverage, the property coverage shall not be included in this definition of commercial casualty insurance.

(2) This section shall apply only to commercial casualty insurance as defined in subsection (1).

(3) Each insurer or insurer group offering commercial casualty 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.

There shall be no civil cause of action against any insurer, its agents, or its employees for acts or omissions in any way connected with the requirements of this subsection. This shall not limit the authority for the department to enforce the provisions of this subsection.

(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 separate lines of commercial casualty insurance, including the general liability portion of commercial multiple peril insurance, medical malpractice insurance, other commercial liability insurance, commercial auto no-fault insurance, other commercial auto liability insurance, commercial auto physical damage insurance, and such other lines of commercial casualty insurance as designated by rule by the department:

(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 through 1990 have become available. With respect to 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 1993. 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 those policyholders of the insurer or insurer group who:

1. Have a policy in force on December 31 of the final compilation year;

2. Have had a policy in force for at least one year; and

3. Have complied with the guidelines for the applicable risk management plan which shall 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 maintenance of such loss experience requirements shall be applied equally to all insured risks.

(b) All money placed in the fund and interest thereon shall be proportionately distributed to each eligible policyholder on the basis of earned premium.

(c) In no event shall the funds distributed to a policyholder for a reporting period exceed the policyholder's total premium for the reporting period.

(d) Distribution of funds shall not be required as to any one policyholder if the amount of such funds would be less than \$25.

(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.

Section 25. 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 26. 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 27. 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 the state or in a particular geographic area, based on the eligibility criteria specified in paragraph (a), the department shall implement by order with respect to any such class, line or type of insurance a joint underwriting 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. Prior to coverage being offered through the joint underwriting plan for any class, line, or type of insurance, it shall be a necessary precondition that the department determine the existence of an availability problem for such class, line, or type of insurance as provided in this section. 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 statute or rule as a condition of conducting business, if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market. In order to be eligible for coverage, a risk shall first obtain two rejections from insurers authorized to transact and actually writing the kind and class of insurance in this state for which the risk made application.

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. In order to be eligible for coverage, a risk shall first obtain two rejections from insurers authorized to transact and actually writing the kind and class of insurance in this state for which the risk made application;

(II) Failure to secure the insurance would substantially 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, Section 80-83, Florida commercial and residential risks previously insured under the federal program shall be eligible under the plan if such insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market.

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. Schedule and experience rating plans which reasonably reflect the claims experience of individual insureds. Such rating plan shall include at least two levels of rates for risks that have favorable loss experience and risks that have unfavorable loss experience, as established by the plan.

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. Rates shall include appropriate risk loading and other considerations necessary to develop rates which, together with investment income, are expected, within a reasonable degree of actuarial certainty, to provide for payment of claims and expenses without the need for premium contingency assessments.

(c)1. 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.

2. As to any remaining deficit, each policyholder shall pay to the plan a premium contingency assessment not to exceed one-third of the premium payment paid by such policyholder to the plan for the policy year. The plan shall pay no further claims on any policy for the policyholder who fails to pay the premium contingency assessment.

3. If there is any remaining deficit under the plan after assessment against policyholders of the maximum premium contingency assessment, such deficit shall be recovered from the participating insurers. The plan may make assessments against participating insurers prior to collection of the maximum premium contingency assessment against policyholders, provided that the plan aggressively pursues such assessment against policyholders. In calculating the deficit to be recovered from the participating insurers, two separate calculations shall be made with regard to the property and casualty insurance issued to commercial risks, and the property and casualty insurance issued to personal risks. Any remaining deficit for the lines of property and casualty insurance issued to commercial risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for commercial risks written during the preceding calendar year

bears to the aggregate net direct premium written for commercial risks by all members of the plan for the lines of insurance included in the plan. Any remaining deficit for the lines of property and casualty insurance issued to personal risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for personal risks written during the preceding calendar year bears to the aggregate net direct premium written for personal risks by all members of the plan for the lines of insurance included in the plan.

(d) Any funds or entitlements that the State of Florida may be eligible to receive by virtue of the federal government's termination of the Federal Crime Insurance Program referenced in sub-subparagraph (a) 1.c., 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.

(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 a member representing the insurers participating in the joint underwriting association, a member named by the Insurance Commissioner, and a representative of the market assistance plan created under s. 627.3515. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and 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.

(f) The joint underwriting plan shall cease writing coverage for commercial property or casualty insurance in the event that an assessment is ordered against the participating insurers that, in the aggregate, exceeds 300 percent of the assessment that has been made against the policyholders, in the aggregate, for any one policy year. The joint underwriting plan shall cease writing coverage for personal property or casualty insurance in the event that an assessment is ordered against the participating insurers that, in the aggregate, exceeds 300 percent of the assessment that has been made against the policyholders, in the aggregate, for any one policy year. The provisions of this paragraph shall not apply if the premium collected in the joint underwriting plan was less than \$1 million for the policy year.

Section 28. Subsection (2) of section 627.3515, Florida Statutes, is amended to read:

627.3515 Market assistance plan; property and casualty risks.—

(2) The market assistance plan shall be governed by an 11-member ~~seven-member~~ board of governors appointed by the Insurance Commissioner, and shall have an executive or underwriting committee. At least 4 of the members shall be representatives of insurance trade associations as follows: one member representing the American Insurance Association, one member representing the Alliance of American Insurers, one member representing the National Association of Independent Insurers, and one member representing an unaffiliated insurer writing coverage on a national basis. The plan shall be funded and staffed by the participating insurers. The plan shall not be required to assist in the placement of any workers' compensation, employer's liability, malpractice, or motor vehicle insurance coverage. Any fee charged by the plan shall be for a reasonable amount approved by the department and shall be earned only upon the successful placement of the risk.

Section 29. 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 chapter 472.
7. Insurance agents licensed under chapter 626.

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, up to *determined limits*, 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.

(4)(a) *The liability of each member for the obligations of the trust fund shall be individual, several, and proportionate, but not joint, except as provided in this subsection.*

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

(c) *The trust fund may assess from time to time members of the fund liable therefor under the terms of their policies and pursuant to this section or the department may assess the members in the event of liquidation of the fund.*

(d) *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, when necessary and appropriate, to recover the assessment from members who failed to pay it.*

(e) *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.*

(f) *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.*

(g) *If the assets of a trust fund are at any time insufficient to comply with the requirements of law or to discharge its liabilities, and*

to meet the required conditions of financial soundness, or if a judgment against the fund has remained unsatisfied for 30 days, the trust fund 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 this subsection.

(h) *If the trust fund fails to make an assessment as required by paragraph (g), the department shall order the fund to do so. If the deficiency is not sufficiently made up within 60 days after the date of the order, the fund shall be deemed insolvent and grounds shall be deemed to exist to proceed against the fund as provided for in part I of chapter 631.*

(i) *Subject to the provisions of this section, any rehabilitation, liquidation, conservation, or dissolution of a trust 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.*

(5) *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 30. 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 nurse, licensed practical nurse, and advanced registered nurse practitioner 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 ~~s. 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 the 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) ~~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)(3) 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.

(7)(a) The liability of each member for the obligations of the trust fund shall be individual, several, and proportionate, but not joint, except as provided in this subsection.

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

(c) The trust fund may assess from time to time members of the fund liable therefor under the terms of their policies and pursuant to this section or the department may assess the members in the event of liquidation of the fund.

(d) 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, when necessary and appropriate, to recover the assessment from members who failed to pay it.

(e) 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.

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

(g) If the assets of a trust fund are at any time insufficient to comply with the requirements of law or to discharge its liabilities and to meet the required conditions of financial soundness, or if a judgment against the fund has remained unsatisfied for 30 days, the trust fund 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 this subsection.

(h) If the trust fund fails to make an assessment as required by paragraph (g), the department shall order the fund to do so. If the deficiency is not sufficiently made up within 60 days after the date of the order, the fund shall be deemed insolvent and grounds shall be deemed to exist to proceed against the fund as provided for in part I of chapter 631.

(i) Subject to the provisions of this section, any rehabilitation, liquidation, conservation, or dissolution of a trust 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.

(8) 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 31. 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 as required under this section, the coverage provided to the named insured shall remain in effect until 45 days after 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 32. 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 33. 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 34. Section 627.9126, Florida Statutes, is created to read:

627.9126 Annual reports of information by liability insurers required.—

(1) Each insurer transacting commercial multiperil, products liability, commercial automobile liability, private passenger automobile liability, or other line of liability insurance shall maintain information as specified in this section. Such information shall be maintained for each line of insurance and for direct Florida business only. The department shall annually conduct a sampling of claims or actions for damages for personal injury or property damage 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.
- (2) Upon request of the department, an insurer shall, within 60 days, submit to the department a report which contains:
- (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.
- (3) The reports required by subsection (2) 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. This exemption is subject to the "Open Government Sunset Review Act" in accordance with s. 119.14.
 - 7. The total number and names of all defendants involved in the claim.
 - 8. Claims settled after a suit was filed.
 - 9. Claims paid based on a judgment.
 - 10. Judgments appealed by the insurer, together with the total results of such appeals.
 - 11. The date and amount of final judgment or settlement, if any, including the itemization of the verdict, together with a copy of the settlement or final judgment.
 - 12. 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.

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

14. 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.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them pursuant to this section.

Section 35. 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, except workers' compensation or employer's liability insurance.

(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 insurer. 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 36. 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 37. 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 38. 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 39. 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 40. 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 liabilities 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 41. For the 1986-1987 fiscal year, there is hereby appropriated \$810,691 from the Insurance Commissioner's Regulatory Trust Fund, and ten positions within the Division of Insurance Rating, three positions within the Division of Insurance Company Regulation, and two career service positions and three selected professional service positions within the Office of the General Counsel (which is located in the Office of the Treasurer, Division of Administration), Department of Insurance, are authorized to implement the provisions of this act. This section shall take effect July 1, 1986.

Section 42. Subsection (6) is added to section 624.307, Florida Statutes, to read:

624.307 General powers, duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter 110. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. The benefits shall be the same as those provided for the Senior Management Service.

Section 43. For the 1986-1987 fiscal year, there is hereby appropriated the sum of \$96,943.64 from the Insurance Commissioner's Regulatory Trust Fund for the purpose of increasing the salary levels paid to

actuaries employed by the Department of Insurance pursuant to s. 624.307(6), Florida Statutes, to salary levels which are commensurate with salary levels paid to actuaries by the insurance industry. This section shall take effect July 1, 1986.

Section 44. (1) Effective July 1, 1986, section 768.48, Florida Statutes, as amended by chapter 85-175, Laws of Florida, is hereby repealed and said section shall not apply to causes of action arising on or after said date.

(2) Effective July 1, 1986, section 768.301, Florida Statutes, is created to read:

768.301 Itemized verdict.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts 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 the following categories of damages:

(a) Amounts intended to compensate the claimant for reasonable medical expenses which have been incurred or will be incurred;

(b) Amounts intended to compensate the claimant for lost wages or loss of earnings capacity, and other economic losses of the claimant, which have been incurred or will be incurred;

(c) Amounts intended to compensate the claimant for pain and suffering, loss of companionship, embarrassment, inconvenience, and other items of general damages, which have been incurred or will be incurred in the future; and

(d) Amounts awarded to the claimant for punitive damages.

(2) Each category of damages, other than punitive damages, shall be further itemized into amounts intended to compensate for losses which have been incurred prior to the verdict and amounts intended to compensate for losses to be incurred in the future. Future damages itemized under paragraphs (1)(a) and (b) shall be computed before and after reduction to present value. Damages itemized under paragraph (1)(c) or (d) shall not be reduced to present value. 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.

(3) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 45. Effective July 1, 1986, section 768.303, Florida Statutes, is created to read:

768.303 Remittitur and additur.—

(1) In any action for the recovery of damages based on personal injury or wrongful death or damages to property arising out of the same facts wherein the trier of fact determines that liability exists on the part of the defendant and a verdict is rendered which awards money damages to the plaintiff, it shall be the responsibility of the court, upon proper motion, to review the amount of such award to determine if such amount is excessive or inadequate in light of the facts and circumstances which were presented to the trier of fact.

(2) If the court finds that the amount awarded is excessive or inadequate, it shall order a remittitur or additur as the case may be.

(3) It is the intention of the Legislature that awards of damages in tort actions be subject to close scrutiny by the courts and that all such awards be adequate and not excessive.

(4) If the party adversely affected by such remittitur or additur does not agree, the court shall order a new trial in the cause on the issue of damages only.

(5) In determining whether an award is excessive or inadequate in light of the facts and circumstances presented to the trier of fact and in determining the amount, if any, that such award exceeds a reasonable range of damages or is inadequate, the court shall consider the following criteria:

(a) Whether the amount awarded is indicative of prejudice, passion, or corruption on the part of the trier of fact;

(b) Whether it appears that the trier of fact ignored the evidence in reaching a verdict or misconceived the merits of the case relating to the amounts of damages recoverable;

(c) Whether the trier of fact took improper elements of damages into account or arrived at the amount of damages by speculation and conjecture;

(d) Whether the amount awarded bears a reasonable relation to the amount of damages proved and the injury suffered; and

(e) Whether the amount awarded is supported by the evidence and is such that it could be adduced in a logical manner by reasonable persons.

(6) It is the intent of the Legislature to vest the trial courts of this state with the discretionary authority to review the amounts of damages awarded by a trier of fact in light of a standard of excessiveness or inadequacy. The Legislature recognizes that the reasonable actions of a jury are a fundamental precept of American jurisprudence and that such actions should be disturbed or modified with caution and discretion. However, it is further recognized that a review by the courts in accordance with the standards set forth in this section provides an additional element of soundness and logic to our judicial system and is in the best interests of the citizens of this state.

(7) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 46. Effective July 1, 1986, section 768.305, Florida Statutes, is created to read:

768.305 Pleading in civil actions; claim for punitive damages.—

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) This section shall apply to any cause of action arising on or after July 1, 1986.

Section 47. (1) Effective July 1, 1986, section 768.50, Florida Statutes, is hereby repealed and said section shall not apply to causes of action arising on or after said date.

(2) Effective July 1, 1986, section 768.307, Florida Statutes, is created to read:

768.307 Collateral sources of indemnity.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts 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 as a result of his injury, 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 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.

(b) Notwithstanding any other provision of this section, benefits received under the Medicaid program of Title XIX of the Social Security Act or from any medical services program administered by the Department of Health and Rehabilitative Services shall not be considered a collateral source.

(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) In addition to any right of subrogation against a tortfeasor for amounts that have not been paid to a claimant, a provider of collateral sources shall have a right of reimbursement from a claimant to whom it has provided collateral sources if such claimant has recovered all or part of such collateral sources from a tortfeasor. Such provider's right 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 a percentage 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 can demonstrate 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) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 48. (1) Effective July 1, 1986, section 768.51, Florida Statutes, as amended by chapter 85-175, Laws of Florida, is hereby repealed and said section shall not apply to causes of action arising on or after said date.

(2) Effective July 1, 1986, section 768.309, Florida Statutes, is created to read:

768.309 Alternative methods of payment of damage awards.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts in which the trier of fact makes an award to compensate the claimant for future losses which exceed \$500,000, 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 future special damages, as itemized pursuant to s. 768.301(1)(a) and (b), in excess of \$250,000 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, reduced to present value, 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 \S 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:

1. Order additional security;

2. Order that the balance of payments due be placed in trust for the benefit of the claimant;

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

4. 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.

(8) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 49. Effective July 1, 1986, section 768.311, Florida Statutes, is created to read:

768.311 Offer of judgment and demand for judgment.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts if a defendant files an offer of judgment which is not accepted by the plaintiff within 30 days, 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 within 30 days 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.

(2)(a) If a party is entitled to costs and fees pursuant to the provisions of subsection (1), the court may, in its discretion, determine that an offer of judgment was not made in good faith. In such case, the court may disallow an award of costs and attorney's fees.

(b) When determining the reasonableness of an award of attorney's fees pursuant to this section, the court shall consider, along with all other relevant criteria, the following additional factors:

1. The then apparent merit or lack of merit in the claim that was subject to the offer.

2. The number and nature of offers made by the parties.

3. The closeness of questions of fact and law at issue.

4. Whether the offeror had unreasonably refused to furnish information necessary to evaluate the reasonableness of the offer.

5. Whether the suit was in the nature of a test case, presenting questions of far-reaching importance affecting nonparties.

6. The amount of the additional delay cost and expense that the offeror reasonably would be expected to incur if the litigation should be prolonged.

(3) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 50. Effective July 1, 1986, section 768.313, Florida Statutes, is created to read:

768.313 Optional settlement conference in certain tort actions.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts the court may require a settlement conference to be held at least 3 weeks before the date set for trial.

(2) Attorneys who will conduct the trial, parties, and persons with authority to settle shall attend the settlement conference held before the court unless excused by the court for good cause.

(3) This section shall apply to any cause of action for personal injury or wrongful death arising on or after July 1, 1986.

Section 51. Effective July 1, 1986, section 768.315, Florida Statutes, is created to read:

768.315 Noneconomic losses; limitation of damages.—

(1) In any action for damages for personal injury or wrongful death or damages to property arising out of the same facts where the claimant or his personal representative may be entitled to recover noneconomic damages, including, but not limited to, pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, and the loss of capacity for enjoyment of life, the judgment for the total amount of damages for such noneconomic losses shall not exceed \$250,000, except as provided in subsection (2).

(2) If any award for noneconomic damages exceeds the limitation specified in subsection (1), the award is presumed to be excessive and the defendant shall be entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances which were presented to the trier of fact.

Section 52. Effective July 1, 1986, section 768.316, Florida Statutes, is created to read:

768.316 Punitive damages; limitation.—

(1)(a) In any civil action, the judgment for the total amount of punitive damages awarded to a claimant shall not exceed three times the amount of compensatory damages awarded to the claimant by the trier of fact, except as provided in paragraph (b).

(b) If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant shall be entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances which were presented to the trier of fact.

(2) An award of punitive damages made pursuant to this section shall be payable as follows:

(a) Fifty percent of the award shall be payable to the claimant.

(b) If the cause of action was based on personal injury or wrongful death, fifty percent of the award shall be payable to the Public Medical Assistance Trust Fund created in s. 409.2662; otherwise, fifty percent of the award shall be payable to a state trust fund or a state program, to be used for an appropriate public purpose, as determined by the court at a post-judgment hearing.

(3) In the event that the full amount of punitive damages awarded cannot be collected, the claimant and the trust fund or program designated pursuant to paragraph (2)(b) shall each be entitled to a proportional share of the punitive damages collected.

(4) Claimant's attorney's fees, if payable from the judgment, shall, to the extent that they are based on the punitive damages, be calculated based only on the portion of the judgment payable to the claimant as provided in subsection (2). Nothing herein shall be interpreted as limiting the payment of attorney's fees based upon the award of damages other than punitive damages.

(5) The jury shall not be instructed, nor shall it be informed, as to the provisions of this section.

Section 53. (1) Effective July 1, 1986, section 768.59, Florida Statutes, as created by chapter 85-175, Laws of Florida, is hereby repealed and said section shall not apply to causes of action arising on or after said date.

(2) Effective July 1, 1986, section 768.317, Florida Statutes, is created to read:

768.317 Comparative fault.—

(1) **EFFECT OF CONTRIBUTORY FAULT.**—In an action based on negligence seeking to recover damages for personal injury or wrongful death or damages to property arising out of the same facts, any contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery.

(2) APPORTIONMENT OF DAMAGES.—

(a) In all actions involving fault of more than one party to the action, including third-party defendants and persons who have been released under subsection (3), the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating:

1. The amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

2. The percentage of the total fault of all of the parties to each claim that is allocated to each claimant, defendant, third-party defendant, and person who has been released from liability under subsection (3). For this purpose the court may determine that two or more persons are to be treated as a single party.

(b) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party at fault and the extent of the causal relation between the conduct and the damages claimed.

(c) The court shall determine the award of damages to each party entitled thereto in accordance with the findings and enter judgment against each party liable on the basis of the party's percentage of fault and not on the basis of rules of joint and several liability. However, if any party against whom judgment is entered has not paid such judgment and lacks the immediate ability to pay such judgment through insurance, self-insurance, or other assets, the claimant may request a reallocation of judgment pursuant to paragraph (d).

(d) The claimant may at any time after 60 days from entry of final judgment request the court to conduct a reallocation hearing unless, upon motion of the claimant, the court determines that reallocation may be ordered at the time of entry of final judgment. If the claimant proves that any portion of the judgment as originally apportioned is unpaid and that the judgment debtor liable therefor does not then have available the immediate ability to pay through sufficient insurance coverage, self-insurance, or other assets, the court shall reallocate the deficiency among the other judgment debtors to the extent to which they have the immediate ability to pay their share of the deficiency through sufficient insurance coverage, self-insurance, or other assets, and enter a supplemental judgment against each such judgment debtor; provided that the amount of a supplemental judgment shall not exceed the product of the deficiency multiplied by the supplemental judgment debtor's percentage of fault. Any judgment debtor whose judgment is reallocated pursuant to this paragraph shall remain liable to the claimant on the final judgment, less any reallocated amount, and to any supplemental judgment debtor for his share of the reallocated amount.

(e) The reallocation procedures specified in paragraph (d) shall be stayed if the trial court grants a supersedeas to any party pending an appeal from the judgment.

(3) **EFFECT OF RELEASE.**—A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges all liability for the released person's proportional share of the claimant's damages and discharges the released person from any liability for reallocation of any other liable person's deficiency pursuant to the provisions of paragraph (2)(d), but does not discharge any other persons liable upon the same claim unless it so provides.

(4) **APPLICABILITY.**—This section shall apply to any cause of action arising on or after July 1, 1986, which is based on negligence for damages for personal injury or wrongful death or damages to property arising out of the same facts. However, this section shall not apply to any action brought by any person to recover actual economic damages resulting from pollution or to any action based upon an intentional tort.

Section 54. Effective July 1, 1986, paragraph (g) of subsection (2) of section 768.31, Florida Statutes, is amended to read:

768.31 Contribution among tortfeasors.—

(2) RIGHT TO CONTRIBUTION.—

(g) This act shall not apply to breaches of trust or of other fiduciary obligation nor to any action subject to the provisions of s. 768.317.

Section 55. Effective July 1, 1986, section 768.319, Florida Statutes, is created to read:

768.319 Applicability.—

(1) In the event of any conflict by any statute with the provisions of any section added by this act to part I of this chapter, the provisions of said statute shall apply.

(2) No section added by this act to part I of this chapter shall apply to any cause of action arising before the effective date of the section.

Section 56. **Academic Task Force for Review of Tort and Insurance Law.—**

(1) TASK FORCE CREATED; MEMBERSHIP; COMPENSATION.—

(a) There is hereby created within the legislative branch the Academic Task Force for Review of Tort and Insurance Law. The task force

shall be composed of three members, including the president of each of the state's higher educational institutions which have public law schools. 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.

(b) The task force members shall serve for the life of the task force, commencing upon the effective date of this section, and ending at the adjournment of the regular legislative session held in 1988. Vacancies shall be filled for the unexpired terms in the same manner in which the initial members were appointed.

(c) The task force, by majority vote, shall elect one of its members as chairman.

(d) 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.

(2) **POWERS AND DUTIES.**—The task force shall:

(a) Examine the common law and statutes of the state, the State Constitution, and current judicial decisions for the purpose of discovering ambiguities, defects, and anachronisms in tort and insurance law and recommending needed reforms.

(b) Recommend such changes in tort and insurance law as it deems proper to modify or eliminate antiquated or inequitable rules of law, and to bring the tort and insurance law of the state into harmony with modern conditions.

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

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

(e) Examine insurance company claims experience and other relevant data and determine the nature and extent of factors within the tort system which influence the cost of insurance, self-insurance, and the tort and liability system.

(f) Examine insurance company claims experience and other relevant data and determine the nature and extent of factors other than the tort system which influence the cost of insurance, self-insurance, and the tort and liability system.

(g) Examine and evaluate the effects of the provisions implemented by this act, including the effect of all tort and insurance provisions on the cost of insurance, self-insurance, and the tort and liability system, on society as a whole, and on any other factor which the task force deems relevant.

(h) Examine and evaluate the potential effect of various alternative methods and proposals for insurance and tort reform on the cost of insurance, self-insurance, and the tort and liability system, on society as a whole, and on any other factor which the task force deems relevant.

(i) Make recommendations with respect to whether the Legislature should further address insurance rates or premiums during the 1988 legislative session.

(j) Examine the law of tort as applied in this state with respect to its ability to provide for the speedy, cost-effective, and fair dispensation of justice, and make specific recommendations related thereto.

(k) Examine and evaluate the adequacy and financial reliability of the reinsurance market and make specific recommendations related thereto.

In the exercise of its duties the task force may exercise any of the powers granted to standing or select committees of the Legislature pursuant to s. 11.143, Florida Statutes. Witnesses summoned before the task force shall be paid mileage and witness fees as authorized for witnesses in civil cases.

(3) **EXEMPTIONS; CONFIDENTIALITY AGREEMENTS.**—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 such task force. No person who was in attendance at a meeting of such task force shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such task force or as to any findings, recommendations, evaluations, opinions, or other actions of such 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.

(4) **PROCUREMENT OF INFORMATION; STATE AGENCIES.**—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.

(5) **PERSONNEL AND PURCHASES.**—

(a) 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 leading faculty members of the state's higher educational institutions which have public 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. The task force is authorized to pay compensation to personnel who are simultaneously employed by the state or by any agency or subdivision of the state. The provisions of chapter 110, Florida Statutes, shall not apply to personnel of the task force.

(b) The task force may procure temporary and intermittent professional services and render compensation therefor within the amount appropriated in subsection (7) 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.

(c) The employment of personnel and the procurement of services or commodities by the task force are exempt from the provisions of chapter 287, Florida Statutes.

(6) **REPORTS TO LEGISLATURE.**—The task force shall submit a report of its action to the Legislature with such comments and recommendations as it may deem appropriate. The task force may also forward to the Legislature studies or recommendations of others without endorsing those studies or recommendations. The report of the task force shall be presented to the Legislature by March 1, 1988, but the task force may file amendments to the report as appropriate until such time as the task force ceases to exist pursuant to paragraph (1)(b).

(7) **APPROPRIATION.**—There is hereby appropriated from the General Revenue Fund to the Academic Task Force for Review of Tort and Insurance Law the sum of \$803,280 for the purpose of carrying out the provisions of this section.

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

Section 57. Effective July 1, 1986, section 627.9125, Florida Statutes, is created to read:

627.9125 **Liability claims and actions; reports by insurers.**—

(1) Each insurer which is in the top ten carrier groups by premium volume, as reflected in the previous year's annual statement for commercial casualty liability insurance, shall report to the department on a one-time basis the information specified in subsection (3) for the previous years 1983, 1984, and 1985 by October 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 section, the carrier shall furnish only such information or portions thereof as did exist.

(2) 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.
- (3) The reports required by subsection (2) 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 Review of Tort and Insurance Law created under this act, 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.
 - (4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees or the Academic Task Force for Review of Tort and Insurance Law for any action taken by them pursuant to this section.

Section 58. (1) No later than July 1, 1986, all insurers writing commercial liability insurance in this state shall implement a special credit which has the effect of reducing the rates in effect for each line of commercial liability insurance to a level at least 40 percent below the rates, as reduced by any discounts or credits 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 commercial 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 or renewed on or after July 1, 1986. This reduction shall also be applicable to policies in effect on July 1, 1986, to the extent that the premium is not yet earned on such date, and such reduction shall apply to the remaining policy period, or until January 1, 1987, whichever is the shorter period. With regard to such policies in effect on July 1, 1986, the reduction may be applied as a credit upon the renewal date of the policy or, if the policy is terminated, the reduction shall be refunded to the

policyholder upon termination. 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. As to policies of insurance that combine commercial liability insurance with other coverages and for which no separate premium has been filed for the commercial liability coverage, this section shall apply to the portion of premium which the insurer establishes should be allocated to such coverage in accordance with generally accepted actuarial methodology.

(2) On or before October 1, 1986, each insurer or rating organization with subscribers writing commercial liability insurance in this state shall submit to the department a rate filing which reduces the rates in effect on May 1, 1986, by the amount of the special credit provided for in subsection (1) for all lines of commercial liability insurance. Each insurer or rating organization shall include in the filing the expected impact on losses, expenses, and rates of the reforms implemented by this act. Such filing shall apply to rates that are used on or after 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.

(4) The department shall review each separate rate filed pursuant to subsection (3) and approve or disapprove it pursuant to the provisions of s. 627.062, Florida Statutes. 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).

(5) On January 1, 1987, the rating provisions of s. 627.062, Florida Statutes, shall be fully applicable. Any filing that was made on or before October 1, 1986, which has not yet been acted upon by the department shall be deemed to be filed on January 1, 1987, for purposes of s. 627.062, Florida Statutes.

(6)(a) Any insurer that has issued a commercial liability insurance policy in this state which is in effect on the effective date of this section, shall not cancel such policy prior to January 1, 1987, except for a reason specified in paragraph (c).

(b) Any insurer that has issued a commercial liability insurance policy in this state that is in effect on the effective date of this section, and which has a scheduled termination date prior to January 1, 1987, shall continue the terms of such policy through December 31, 1986, subject to the rate reduction required by subsection (1), except for a reason specified in paragraph (c).

(c) Any insurer subject to the requirements of this subsection may cancel or refuse to continue a policy only for the following reasons:

- 1. Material misstatement or misrepresentation;
- 2. Nonpayment of premium;
- 3. Failure to comply with underwriting requirements established by the insurer within 90 days of coverage;
- 4. A substantial change in risk covered by the policy unrelated to the rate reduction required by this section; or
- 5. At the written request of the policyholder.

(d) The prohibition against canceling or refusing to continue a policy as provided in this subsection shall be a condition of doing business in this state and violation of this subsection or violation of any other provision of this section shall be subject to the penalties and procedures of ss. 624.418(2), 624.420, 624.421, and 624.4211, Florida Statutes, except that with respect to any violation of this section, the department may impose a fine against an insurer in an amount up to \$10,000 for each policy directly affected by such violation.

(e) The provisions of this subsection shall supersede the provisions of s. 627.4133, Florida Statutes, as created by this act, for such policies covered by this act during the time period covered by this subsection.

(7) This section shall not apply to any self-insurance trust formed under the provisions of s. 627.356 or s. 627.357.

(8) This section shall not apply to any reinsurance contract, insurance policy written by a surplus lines insurer, or any other insurance contract for which rates are not filed with the department.

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

Section 59. (1) Sections 768.309, 768.315, 768.316, and 768.317, Florida Statutes, as created by this act, are repealed on July 1, 1990, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

(2) As part of its review of sections 768.309, 768.315, 768.316, and 768.317, Florida Statutes, pursuant to s. 11.61, the Legislature shall give due consideration to the findings of the Academic Task Force for Review of Tort and Insurance Law and shall, give specific consideration to the findings of the task force with respect to the costs and benefits of tort reform.

Section 60. Section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(1) As a condition of licensing and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of medicine, an applicant shall by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per claim amounts specified in paragraph (b).

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an authorized insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

(c) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than \$100,000 per claim, with a minimum aggregate availability of credit of not less than \$300,000. The letter of credit shall be payable to the physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the physician or upon presentment of a settlement agreement signed by all parties to such agreement, where such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. Such letter of credit shall be nonassignable and non-transferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

(2) As a continuing condition of hospital staff privileges, physicians with staff privileges shall also be required to establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per claim amounts specified in paragraph (b).

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$250,000 per claim, with a minimum annual aggregate of not less than \$750,000 from an authorized insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

(c) Obtaining and maintaining an unexpired irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than \$250,000 per claim, with a minimum aggregate availability of credit of not less than \$750,000. The letter of credit shall be payable to the physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the physician or upon presentment of a settlement agreement signed by all parties to such

agreement, where such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. Such letter of credit shall be nonassignable and non-transferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

This subsection shall be inclusive of the coverage in subsection (1).

(3)(a) The financial responsibility requirements of subsections (1) and (2) shall apply to claims for incidents that occur on or after January 1, 1987, or the initial date of licensure in this state, whichever is later.

(b) Meeting the financial responsibility requirements of this section or the criteria for any exemption from such requirements shall be established at the time of issuance or renewal of a license on or after January 1, 1987.

(c) Any person may, at any time, submit to the department a request for an advisory opinion regarding such person's qualifications for exemption.

(4)(a)(2) Each insurer, self-insurer, or Joint Underwriting Association shall promptly notify the Department of Professional Regulation of cancellation or nonrenewal of insurance required by this section. Unless the physician demonstrates that he is otherwise in compliance with the requirements of this section shows good cause at a hearing, the Department of Professional Regulation shall suspend the license of the uninsured physician pursuant to s. 120.57 and notify all health care facilities licensed under chapter 395 of such action. Any suspension under this subsection shall remain in effect until the physician demonstrates compliance with the requirements of this section, except that a license suspended under paragraph (5)(g) shall not be reinstated until the physician demonstrates compliance with the requirements of that provision.

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest, or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the physician, the department shall suspend the license of the physician pursuant to procedures set forth in subsection (5)(g)2., 3., and 4. Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(5)(4) The requirements of subsections (1), (2), and (3) ~~This section~~ shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For purposes of this subsection, an agent of the state, its agencies or subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(13).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in Florida. If such person, initiates or resumes any practice of medicine in Florida, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 500 hours per year.

3. The licensee has had no claim for medical malpractice resulting in an indemnity exceeding \$10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license for purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming that the licensee is in compliance with all requirements of this paragraph.

7. The licensee shall submit biennially to the department a certification of the actual number of medical hours practiced, recorded on a monthly basis. Daily time records for a 4-year period shall be made available to the department upon request of the department.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. **YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE.** This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee agrees to submit any claim for medical malpractice to binding arbitration pursuant to chapter 682 at the option and written request of the patient or claimant. No patient shall be required to request arbitration of potential claims as a condition of receiving medical services from a physician who asserts an exemption under this paragraph.

2. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000 if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000 if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final

and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counter-claim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that such licensee's license to practice medicine shall be subject to suspension, unless within 30 days from the date of mailing the licensee either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal, and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of suspension to the licensee, the panel shall make a determination of whether probable cause exists to suspend the license of the licensee pursuant to subparagraph 2. Upon a determination that probable cause exists, the license shall be temporarily suspended by order of the Secretary of Professional Regulation, who shall suspend the license pursuant to and following the provisions of s. 120.60(8). The Legislature hereby declares that failure of a physician to satisfy a judgment against him which is an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort constitutes an immediate threat to the public health, safety, and welfare.

4. If the board determines that the factual requirements of subparagraph 2. are met, it shall suspend the license. Any such suspension of a license shall be in effect for 5 years, unless the licensee demonstrates to the board that the judgment has been satisfied, that payment in the amounts provided in subparagraph 2. has been made, or that an agreement to satisfy the judgment has been reached with the judgment creditor. In the event that an agreement to satisfy a judgment has been reached, the board shall remove the suspension and conditionally reinstate the license on a probationary status pending the licensee's compliance with the terms and conditions of the settlement agreement. The board shall retain jurisdiction over the licensee until the judgment has been satisfied.

5. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. **YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE.** This is permitted under Florida law subject to certain conditions. In the event of a claim for medical malpractice your doctor agrees to submit the claim to arbitration at the option and upon the written request of the patient or claimant. Florida law imposes strict penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. Any concerns about your doctor's adherence to these requirements may be brought to the attention of the Department of Professional Regulation. This notice is provided pursuant to Florida law.

(6) Any deceptive, untrue or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action as specified in s. 458.331.

(7) Any licensee who relies on any exemption from the financial responsibility requirement shall notify the department, in writing, of any change of circumstance regarding his qualifications for such exemption and shall demonstrate that he is in compliance with the requirements of this section.

Section 61. Section 459.0085, Florida Statutes, is amended to read:
459.0085 Financial responsibility.—

(1) As a condition of licensing and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of osteopathic medicine, an applicant shall by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services, by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per-claim amounts specified in paragraph (b).

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an "authorized insurer" as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

(c) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than \$100,000 per claim, with a minimum aggregate availability of credit of not less than \$300,000. The letter of credit shall be payable to the osteopathic physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the osteopathic physician or upon presentment of a settlement agreement signed by all parties to such agreement, where such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. Such letter of credit shall be nonassignable and nontransferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

(2) As a continuing condition of hospital staff privileges, osteopathic physicians with staff privileges shall also be required to establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per-claim amounts specified in paragraph (b).

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$250,000 per claim, with a minimum annual aggregate of not less than \$750,000 from an authorized insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

(c) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than \$250,000 per claim, with a minimum aggregate availability of credit of not less than \$750,000. The letter of credit shall be payable to the osteopathic physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the osteopathic physician or upon presentment of a settlement agreement signed by all parties to such agreement, where such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. Such letter of credit shall be nonassignable and nontransferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

This subsection shall be inclusive of the coverage in subsection (1).

(3)(a) The financial responsibility requirements of subsections (1) and (2) shall apply to claims for incidents that occur on or after January 1, 1987, or the initial date of licensure in this state, whichever is later.

(b) Meeting the financial responsibility requirements of this section or the criteria for any exemption from such requirements shall be established at the time of issuance or renewal of a license on or after January 1, 1987.

(c) Any person may, at any time, submit to the department a request for an advisory opinion regarding such person's qualifications for exemption.

(4)(a)(3) Each insurer, self-insurer, or Joint Underwriting Association shall promptly notify the Department of Professional Regulation of cancellation or nonrenewal of insurance required by this section. Unless the osteopathic physician demonstrates that he is otherwise in compliance with the requirements of this section shows good cause at a hearing, the Department of Professional Regulation shall suspend the license of the uninsured osteopathic physician pursuant to s. 120.57 and notify all health-care facilities licensed under chapter 395 of such action. Any suspension under this subsection shall remain in effect until the osteopathic physician demonstrates compliance with the requirements of this section except that a license suspended under paragraph (5)(g) shall not be reinstated until the osteopathic physician demonstrates compliance with the requirements of that provision.

(b) If financial responsibility requirements are met by maintaining an escrow account or letter of credit as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the entire amount of the judgment together with all accrued interest, or the amount maintained in the escrow account or provided in the letter of credit as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made by the physician, the department shall suspend the license of the physician pursuant to procedures set forth in subsection (5)(g)2., 3., and 4. Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

(5)(4) The requirements of subsections (1), (2), and (3) This section shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For purposes of this subsection, an agent of the state, or its agencies and or subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(13).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 459.0075 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in Florida. If such person, initiates or resumes any practice of osteopathic medicine in Florida, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 500 hours per year.

3. The licensee has had no claim for medical malpractice resulting in an indemnity exceeding \$10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming that the license is in compliance with all requirements of this paragraph.

7. The licensee shall submit biennially to the department a certification of the actual number of medical hours practiced, recorded on a monthly basis. Daily time records for a 4-year period shall be made available to the department upon request of the department.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. **YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE.** This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee agrees to submit any claim for medical malpractice to binding arbitration pursuant to chapter 682 at the option and written request of the patient or claimant. No patient shall be required to request arbitration of potential claims as a condition of receiving medical services from an osteopathic physician who asserts an exemption under this paragraph.

2. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000 if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000 if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counter-claim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that such licensee's license to practice medicine shall be subject to suspension, unless, within 30 days from the date of mailing, the licensee either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal, and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

3. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of suspension to the licensee, the panel shall make a determination of whether probable cause exists to suspend the license of the licensee pursuant to subparagraph 2. Upon a determination that probable cause exists, the license shall be temporarily suspended by order of the Secretary of Professional Regulation, who shall suspend the license pursuant to and following the provisions of s. 120.60(8). The Legislature hereby declares that failure of an osteopathic physician to satisfy a judgment against him which is an adverse final judgment arising from a medical malpractice arbitration award, or from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort constitutes an immediate threat to the public health, safety, and welfare.

4. If the board determines that the factual requirements of subparagraph 2. are met, it shall suspend the license. Any such suspension of a license shall be in effect for 5 years, unless the licensee demonstrates to the board that the judgment has been satisfied, that payment in the amounts provided in subparagraph 2. has been made, or that an agreement to satisfy the judgment has been reached with the judgment creditor. In the event that an agreement to satisfy a judgment has been reached, the board shall remove the suspension and conditionally reinstate the license on a probationary status pending the licensee's compliance with the terms and conditions of the settlement agreement. The board shall retain jurisdiction over the licensee until the judgment has been satisfied.

5. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. **YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE.** This is permitted under Florida law subject to certain conditions. In the event of a claim for medical malpractice your osteopathic physician agrees to submit the claim to arbitration at the option and upon the written request of the claimant. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. Any concerns about your osteopathic physician's adherence to these requirements may be brought to the attention of the Department of Professional Regulation. This notice is provided pursuant to Florida law.

(6) Any deceptive, untrue or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action as specified in s. 459.015.

(7) Any licensee who relies on any exemption from the financial responsibility requirement shall notify the department in writing of any change of circumstance regarding his qualifications for such exemption and shall demonstrate that he is in compliance with the requirements of this section.

Section 62. Paragraph (d) of subsection (4) of section 627.351, Florida Statutes, is amended, and paragraph (j) is added to said section, to read:

627.351 Insurance risk apportionment plans.—

(4) **MEDICAL MALPRACTICE RISK APPORTIONMENT.**—

(d) The plan shall provide coverage for claims arising out of the rendering of, or failure to render, medical care or services and, in the case of health care facilities, coverage for bodily injury or property damage to the person or property of any patient arising out of the insured's activities, in appropriate policy forms for all health care providers as defined in paragraph (h). The plan shall include, but shall not be limited to:

1. Classifications of risks and rates which reflect past and prospective loss and expense experience in different areas of practice and in different

geographical areas. To assure that plan rates are adequate to pay claims and expenses, the Joint Underwriting Association shall develop a means of obtaining loss and expense experience; and the plan shall file such experience, when available, with the department in sufficient detail to make a determination of rate adequacy. Within 60 days after a rate filing, the department shall approve such rates or rate revisions as are fully supported by the filing. In addition to provisions for claims and expenses, the ratemaking formula may include a factor for projected claims trending and a margin for contingencies. The use of trend factors shall not be found to be inappropriate.

2. A rating plan which reasonably recognizes the prior claims experience of insureds.

3. Provisions as to rates for:

- a. Insureds who are retired or semiretired.
- b. The estates of deceased insureds.
- c. Part-time professionals.

4. Protection in an amount not to exceed \$250,000 per claim, \$750,000 annual aggregate for health-care providers other than hospitals and in an amount not to exceed \$1.5 million per claim, \$5 million annual aggregate for hospitals. Such coverage for health care providers other than hospitals shall be available as primary coverage and as excess coverage for the layer of coverage between the primary coverage and the total limits of \$250,000 per claim, \$750,000 annual aggregate. *The plan shall also provide tail coverage in these amounts to insureds whose claims-made coverage with another insurer or trust has or will be terminated. Such tail coverage shall provide coverage for incidents that occurred during the claims-made policy period for which a claim is made after the policy period.*

5. A risk management program for insureds of the association. This program shall include, but not be limited to: investigation and analysis of frequency, severity, and causes of adverse or untoward medical injuries; development of measures to control these injuries; systematic reporting of medical incidents; investigation and analysis of patient complaints; and auditing of association members to assure implementation of this program. *The plan may refuse to insure any insured who refuses or fails to comply with the risk management program implemented by the association. Prior to cancellation or refusal to renew an insured, the association shall provide the insured 60 days' notice of intent to cancel or non-renew and shall further notify the insured of any action which must be taken to be in compliance with the risk management program.*

(j) *Any member of the Florida Patient's Compensation Fund established under s. 768.54 who had applied in writing for, or otherwise made written request for, the deficit assessment coverage previously available from the Joint Underwriting Association under s. 627.351(4)(d)5., F.S., 1982, as enacted by chapter 82-391, Laws of Florida, which application or request was made prior to July 1, 1983, but who was denied coverage due to the termination of the offer effective June 23, 1983, shall again be afforded the opportunity to purchase the identical coverage that had been previously available. This coverage shall cover the full amount of any or all deficit assessments issued by the Florida Patient's Compensation Fund against a member for the 1982-1983 fiscal year, limited to twice the amount of the membership fee paid by the member to the fund for the 1982-1983 fiscal year. The premium contingency assessment against policyholders authorized in paragraph (e) of this subsection does not apply to policies issued pursuant to this paragraph. The rate charged for such protection shall not exceed one-third of the membership fee charged the member by the fund. This protection shall only be available to fund members as defined in s. 768.54(1)(b)2., 3., 4., and 8. A request for this protection must be made in writing to an agent together with documentation of evidence of such previous written application or written request together with a sworn affidavit by the applicant and, if an agent was involved with the previous application, the agent, swearing that the requisite application was actually made prior to July 1, 1983. Such coverage shall be made available upon the effective date of this act and for 180 days thereafter.*

Section 63. Section 627.6055, Florida Statutes, is created to read:

627.6055 *Rating classifications for medical malpractice insurance.—*

(1) *Any rates, rating schedules, or rating manuals filed with the department for liability coverage for claims arising out of the rendering of, or the failure to render, medical care or services, including those of the Florida Medical Malpractice Joint Underwriting Association, shall provide rating classifications for policyholders based on the following factors:*

(a) *For an individual physician or osteopath the number of surgical procedures performed annually; and*

(b) *For an individual health care provider or health care facility, the number and severity of indemnities resulting from claims of medical malpractice against such health care provider or facility.*

(2) *This section shall not preclude the use of other rating classifications approved by the department pursuant to the other requirements of this part.*

Section 64. Section 627.6057, Florida Statutes, is created to read:

627.6057 *Medical malpractice insurers; required offer of coverage limits.—An insurer issuing policies of professional liability coverage for claims arising out of the rendering of, or the failure to render, medical care or services, shall make available to physicians licensed under chapter 458 and to osteopathic physicians licensed under chapter 459 coverage with the following limits, subject to usual underwriting standards:*

- (1) *\$100,000 per claim, \$300,000 annual aggregate; and*
- (2) *\$250,000 per claim, \$750,000 annual aggregate.*

Section 65. *Notwithstanding the provisions of section 50 of chapter 85-175, Laws of Florida, sections 458.320 and 459.0085, Florida Statutes, shall not stand repealed on January 1, 1989, but shall be repealed on October 1, 1996, and shall be reviewed by the Legislature pursuant to s. 11.61.*

Section 66. Subsection (2) of section 768.13, Florida Statutes, is amended to read:

768.13 *Good Samaritan Act; immunity from civil liability.—*

(2)(a) *Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent man would have acted under the same or similar circumstances.*

(b) *Any person licensed to practice medicine who gratuitously and in good faith renders emergency care or treatment in response to a "code blue" emergency within a hospital shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as a reasonably prudent person licensed to practice medicine who would have acted under the same or similar circumstances.*

Section 67. Subsection (3) is added to section 90.705, Florida Statutes, to read:

90.705 *Disclosure of facts or data underlying expert opinion.—*

(1) *Unless otherwise required by the court, an expert may testify in terms of opinion or inferences and give his reasons without prior disclosure of the underlying facts or data. On cross-examination he shall be required to specify the facts or data.*

(2) *Prior to the witness giving his opinion, a party against whom the opinion or inference is offered may conduct a voir dire examination of the witness directed to the underlying facts or data for his opinion. If the party establishes prima facie evidence that the expert does not have a sufficient basis for his opinion, the opinions and inferences of the expert are inadmissible unless the party offering the testimony establishes the underlying facts or data.*

(3) *If an expert witness is court-appointed or statutorily required for purposes of independent examination or review, a written report containing all of the opinions of said expert shall be provided to all parties and said expert's testimony, by objection, shall be limited to the expressed opinions in the written report.*

Section 68. *Each section which is added to chapter 624, Florida Statutes, by this act is repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 69. *Each section which is added to chapter 627, Florida Statutes, by this act is repealed on October 1, 1992, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 70. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 71. This act shall take effect October 1, 1986, except as otherwise provided herein.

Amendment 2—On pages 1-5, strike everything before the enacting clause and insert: A bill to be entitled An act relating to tort reform and insurance; providing a short title; creating s. 624.45, F.S.; authorizing certain participation of financial institutions in reinsurance and in insurance exchanges; creating ss. 624.460-624.488, F.S.; authorizing the creation of commercial self-insurance funds; providing for certificates of authority and requirements therefor; providing continuing requirements; providing for annual reports; providing for members' liability; providing for dividends; providing for assessments; providing for deficiency assessments and providing powers to the Department of Insurance with respect to impaired commercial self-insurance funds; providing for use and licensure of agents; providing for filing, approval, and disapproval of forms; providing for the making and use of rates; providing for agent registration; providing for examinations; providing for applicability of other laws; amending s. 517.051, F.S.; providing additional exemptions from securities registration provisions; amending s. 626.9541, F.S.; changing restrictions upon insurance dealings involving increased premiums and cancellations and nonrenewals; amending s. 626.973, F.S.; excluding certain property or casualty insurance from provisions relating to fictitious groups; 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 casualty insurance; providing an exemption from liability; 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 and advisory committees thereto; providing for recovery of deficits; providing eligibility for certain risks insured under certain federal provisions under certain circumstances; prohibiting the plan from writing certain coverage under certain circumstances; amending s. 627.3515, F.S.; expanding the membership of the market assistance plan to include certain insurance trade association representatives; amending s. 627.356, F.S.; expanding provisions relating to professional liability self-insurance to cover certain professions in addition to law; providing for liability of members to the self-insurance trust fund; providing for insolvency and providing powers of the department relating thereto; 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 liability of members to the fund; providing for insolvency and providing powers of the department relating thereto; providing for review of rates; creating s. 627.4133, F.S.; requiring certain insurers to notify insureds of cancellations, nonrenewals, or renewal premiums; providing extension periods; 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; amending s. 627.9126, F.S.; requiring certain liability insurers to report specified information to the Department of Insurance; 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; amending s. 624.307, F.S.; authorizing the Department of Insurance to employ actuaries; providing qualifications; providing an appropriation; repealing s. 768.48,

F.S.; relating to itemized verdicts in medical malpractice actions; creating s. 768.301, F.S.; providing for itemized verdicts in personal injury and wrongful death actions; creating s. 768.303, F.S.; providing for remittitur and additur in such actions; creating s. 768.305, F.S.; providing pleading requirements for punitive damage claims in such actions; creating s. 768.307, F.S.; providing for collateral sources of indemnity; defining "collateral sources"; repealing s. 768.50, F.S.; relating to collateral sources in medical malpractice actions; creating s. 768.309, F.S.; providing for alternative methods of payment of damage awards; repealing s. 768.51, F.S.; relating to alternative methods of payment of damage awards in medical malpractice actions; creating s. 768.311, F.S.; providing for offer of judgment and demand for judgment; creating s. 768.313, F.S.; providing for an optional settlement conference in such actions; creating s. 768.315, F.S.; providing for limitation of damages with respect to noneconomic losses; creating s. 768.316, F.S.; providing a limitation on punitive damages in all civil actions; creating s. 768.317, F.S.; providing for determinations of comparative fault in personal injury and wrongful death actions; providing for proportional liability; providing for the apportionment of damages; providing for reallocation of uncollectible amounts; providing for applicability; providing exceptions; repealing s. 768.59, F.S.; removing provisions relating to joint and several liability and contribution in medical malpractice actions; amending s. 768.31, F.S.; relating to contribution among tortfeasors, to conform; creating s. 768.319, F.S.; providing applicability of certain provisions of the act; creating the Academic Task Force for Review of Tort and Insurance Law; providing for membership and compensation; providing powers and duties; providing exemptions from provisions relating to administrative procedures; authorizing confidentiality agreements; providing for personnel and acquisition of services and commodities; providing exemptions; providing for a report to the Legislature; providing an appropriation; creating s. 627.9125, F.S.; requiring certain insurers to provide specified information to the Department of Insurance relating to liability claims and actions; providing certain confidentiality and use of such information; requiring commercial liability insurers to implement a special credit to reduce commercial liability insurance rates; providing for exceptions; requiring rate filings and providing for review; prohibiting cancellations or refusals to renew certain policies; providing exceptions; providing for future repeal of ss. 768.309, 768.315, 768.316, and 768.317, F.S.; amending s. 458.320, F.S., revising criteria for financial responsibility with respect to the practice of medicine; providing for applicability; providing exceptions to financial responsibility requirements; amending s. 459.0085, F.S., revising criteria for financial responsibility with respect to the practice of osteopathic medicine; providing for applicability; providing exceptions; amending s. 627.351, F.S., revising criteria for coverage with respect to medical malpractice risk apportionment; requiring the Florida Medical Malpractice Joint Underwriting Association to offer deficit assessment coverage to certain members of the Florida Patient's Compensation Fund; creating s. 627.6055, F.S., providing for rating classifications for medical malpractice insurance; creating s. 627.6057, F.S., providing that medical malpractice insurers are required to offer described coverage limits; providing for insurance rate reduction under certain circumstances; amending s. 768.13, F.S.; exempting from civil liability licensed physicians rendering certain emergency care; amending s. 90.705, F.S.; providing for certain disclosures of opinions of court-appointed or statutorily-required expert witnesses; providing for review and repeal; providing for severability; providing effective dates.

On motions by Senator Hair, the Senate refused to concur in the House amendments and the House was requested to recede and in the event the House refused to recede a conference committee was requested. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 871—

HB 871—A bill to be entitled An act relating to county authorities; amending s. 154.401, F.S., renaming the "State Health Facilities Law" as the "State of Florida Health Facilities Authority Law"; amending s. 154.402, providing legislative findings and declaration of necessity; amending s. 154.403, F.S., providing definitions; amending s. 154.404, F.S., creating the State of Florida Health Facilities Authority as a separate body and eliminating its inclusion under the Department of Education; amending s. 154.405, F.S., revising the powers of the authority; amending s. 154.407, F.S., providing for financing agreements; amending s. 154.408, F.S., providing for construction contracts; amending s. 154.41, F.S., relating to revenue bonds; amending s. 154.412, F.S., relating to the

payment of bonds; amending s. 154.413, F.S., providing for revenues; amending s. 154.415, F.S., relating to remedies; amending s. 154.42, F.S., providing that bonds issued pursuant to the act may be validated as provided in chapter 75, F.S.; amending s. 154.422, F.S., providing an exemption to certain certificate of need requirements with respect to bonding; amending s. 154.425, F.S., relating to tax exemptions; repealing s. 11.611(18)(a)1., F.S., removing part V of chapter 154, F.S., from provisions scheduling future review and repeal in accordance with the Sun-down Act; creating an advisory council in those counties which have implemented the provisions of ch. 83-220, Laws of Florida, as amended; specifying membership and terms of office; providing for removal of members; providing staff assistance; providing for meetings; amending ss. 159.45, 159.605, 159.703, and 243.21, F.S.; revising membership requirements for industrial development authorities, housing finance authorities, research and development authorities, and educational facilities authorities; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives requests the return of HB 871.

Allen Morris, Clerk

On motion by Senator Fox, HB 871 was returned to the House as requested.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1307 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Finance and Taxation and Representative Mills and others—

CS for HB 1307—A bill to be entitled An act relating to tax on sales, use and other transactions; amending ss. 212.02, 212.05 and 212.06, F.S.; providing for application of the tax to provision of barber shop, beauty parlor, laundry, dry cleaning, certain pet grooming and other services; amending s. 212.08, F.S., and repealing paragraphs (7)(d) and (e) thereof; removing the exemption for candy; providing that chlorine used for treatment of swimming pools is subject to tax; removing the exemptions for newspapers, magazines, and professional services; amending s. 212.12, F.S.; providing for application of the dealer's credit to dealers providing certain services; providing for a joint select committee to consider sales tax exemptions; providing for reports; providing effective dates.

On motion by Senator Crawford, by unanimous consent CS for HB 1307 was taken up out of order and by two-thirds vote read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 1, line 21, strike everything after the enact-
ment clause and insert:

Section 1. Paragraph (g) of subsection (6), and subsection (16), of section 212.02, Florida Statutes, and paragraph (h) of subsection (6) of said section, as amended by chapter 85-310, Laws of Florida, are amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(6) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. ~~Provided that, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any~~

~~of the services mentioned in s. 167.431, the term "lease" or "rental" means only the net amount of rental involved. The term "lease," "let," or "rental" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer.~~

(h) "Real property" means any interest in the surface of real property unless the property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. ~~Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).~~
4. ~~Recreational property or the common elements of a condominium to the extent provided in s. 212.031(1).~~

(16) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities. ~~The term "admissions" does not mean or include any charge made for entering or staying upon any boat or vessel for the privilege of fishing. The term "admissions" does not mean or include charges for admission by any organization described in s. 170(c) of the Internal Revenue Code of 1954, as amended, to live performances of ballet, dance, or choral performances, concerts (instrumental and vocal), plays (with and without music), operas, and readings, ocean science centers, museums of science, historical museums, botanical and zoological gardens, and exhibitions of paintings, sculpture, photography, and graphic and craft arts.~~

Section 2. Subsection (1) of section 212.031, Florida Statutes, as amended by chapter 85-310, Laws of Florida, is amended to read:

212.031 Lease or rental of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. ~~Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).~~
4. ~~Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter and any other use made by the owner or the condominium association shall be fully taxable under this chapter.~~

~~(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the commercial rental tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of paragraph (a), the department shall determine, from the lease and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.~~

~~(b)(e) For the exercise of such privilege, a tax is levied in an amount equal to 5 percent of and on the total rent charged for such real property by the person charging or collecting the rental.~~

~~(c)(d) When the rental of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.~~

Section 3. Subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. ~~No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized.~~

2. ~~No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations or community or recreational facilities. To receive this exemption, the sponsoring organization or facility must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.~~

3. ~~No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.~~

4. ~~No tax shall be levied on admissions to the National Football League championship game.~~

(a)(b) No municipality of the state shall levy an excise tax on admissions.

(b)(c) The taxes imposed by this section shall be collected in addition to the admission tax collected pursuant to s. 550.09, but the amount collected under s. 550.09 shall not be subject to taxation under this chapter.

Section 4. Paragraph (c) of subsection (1) of section 212.05, Florida Statutes, and paragraph (a) of said subsection of said section, are amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

2.b. Each occasional or isolated sale of an aircraft, boat, or mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit, signed by each party, or other substantial proof stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a mandatory penalty of not less than \$500, or an amount equal to 100 percent of the tax, whichever is greater. For purposes of this ~~subparagraph~~ ~~sub-subparagraph~~, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).

2. ~~This paragraph does not apply to the sale of a boat by or through a registered dealer under this chapter to a purchaser who removes such boat from this state within 10 days after the date of purchase or, when the boat is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:~~

a. ~~Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat outside the state;~~

b. ~~Requires the purchaser to sign an affidavit that he has read the provisions of this section; and~~

c. ~~Makes the affidavit a part of his permanent record.~~

~~In the event the purchaser fails to remove the boat from this state within 10 days after purchase or, when the boat is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.~~

(c) At the rate of 5 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the rental of motion picture film when an admission is charged for viewing such film and except the lease or rental of a motor vehicle to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 5. Paragraph (i) is added to subsection (1) of section 212.05, Florida Statutes, to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(i) *At the rate of 5 percent of the consideration for performing or providing any professional or personal service.*

Section 6. Subsection (16) is added to section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(16) *EXEMPTION; PROFESSIONAL OR PERSONAL SERVICES.—There shall also be exempt from the tax imposed under s. 212.05(1)(i) professional or personal services.*

Section 7. Paragraph (k) is added to subsection (2) of section 212.06, Florida Statutes, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(2)

(k) *"Dealer" also means any person who provides or performs a professional or personal service for a consideration.*

Section 8. Paragraph (b) of subsection (1) of section 212.06, Florida Statutes, paragraph (a) of subsection (5) of said section, and subsection (8) of said section are amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02(5) defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. ~~Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of video tapes or motion pictures prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes. Persons who manufacture factory-built buildings for their own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the persons' cost price of items used in the manufacture of such buildings.~~

(5)(a) It is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on ~~radio and television broadcasting, or any sale which the state is prohibited from taxing under the Constitution or laws of the United States.~~ Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

(8) Use tax will apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that it shall be presumed that tangible personal property used in another state for 6 months or longer before being imported into this state was not purchased for use in this state. The rental or lease of tangible personal property which is used or stored in this state shall be taxable without regard to its prior use or tax paid on purchase outside this state.

Section 9. Section 212.08, Florida Statutes, as amended by chapter 84-356, Laws of Florida, and chapter 85-342, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—There are exempt from the tax imposed by this chapter food and drinks for human consumption ~~and candy, but only when the price at which such candy is sold~~

~~is 25 cents or less. Unless the exemption provided by paragraph (6)(7)(b) for school lunches or; paragraph (6)(7)(c) for meals to certain patients or inmates, or paragraph (7)(k) for meals provided by certain nonprofit organizations pertains, none of such items of food or drinks means:~~

(a) Food or drinks served, prepared, or sold in or by restaurants; drugstores; lunch counters; cafeterias; hotels; amusement parks; race-tracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business Regulation, except bakery products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

(b) Foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle;

(c) Soft drinks, which include, but are not limited to, any nonalcoholic beverage; any preparation or beverage commonly referred to as a "soft drink"; or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk, or natural fluid milk;

(d) Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premise consumption unless such foods are taxed under paragraph (a) or paragraph (b); or

(e) Sandwiches sold ready for immediate consumption.

For the purposes of this subsection, "seller's premises" shall be construed broadly, and means, but is not limited to, the lobby, aisle, or auditorium of a theater, the seating, aisle, or parking area of an arena, rink, or stadium, or the parking area of a drive-in or outdoor theater. The premises of a caterer with respect to catered meals or beverages shall be the place where such meals or beverages are served.

(2) EXEMPTIONS, MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a practitioner of the healing arts licensed by the state; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use, in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; ~~feminine hygiene products, including, but not limited to, sanitary panties, sanitary belts, sanitary napkins, and tampons; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.~~

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a practitioner of the healing arts who is licensed by the state or according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

2. "Cosmetics" means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

3. "Toilet articles" means any article advertised or held out for sale for grooming purposes and those articles which are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

(c) This subsection shall be strictly construed and enforced.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5 percent.

(4) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES, ETC.—

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II. Motor fuels and special fuels are taxable as provided in part II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this paragraph have the same meanings ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this paragraph for the purpose of extending the tax imposed by this chapter is reasonable and just; and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(a) Items in agricultural use and certain nets.—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; fertilizers, insecticides, herbicides, and fungicides used for application on crops or groves; portable containers used for processing farm products; field and garden seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein.

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from

the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail. The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 212.14(6).

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period,

irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(c) Machinery and equipment used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, is exempt from the tax imposed by this chapter. Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under chapter 212 shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

(d) Machinery and equipment used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

2. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery or equipment, reduced by the percentage of gross receipts from cost-reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Such refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and are used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

f. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

5. The exclusions provided in subparagraph (b)5. apply to this exemption. This exemption applies only to machinery or equipment purchased pursuant to production contracts with the United States Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. In no event shall the provisions of this paragraph apply to any expanding business the increase in productive output of which could be measured under the provisions of subparagraph (b)6.b. as physically comparable between the two periods.

(e) Gas used for certain agricultural purposes.—Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 212.67.

(f) Motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of production activities or on a quarterly basis. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "Section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

I. Master tape or master record embodying sound; or

II. Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

3. This paragraph shall expire and be void July 1, 1988.

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.

1. Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2, this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath which includes:

- a. The name and address of the person claiming the refund.
- b. The refund permit number assigned pursuant to s. 212.005 to such person.
- c. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.
- d. A description of the improvements made to accomplish the rehabilitation of the real property.
- e. A copy of the building permit issued for the rehabilitation of the real property.

f. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

g. Either the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the rehabilitated real property is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the rehabilitated real property is located in an enterprise zone.

h. A certification by the property appraiser that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed and that the assessed value for ad valorem tax purposes is, or on the next ad valorem tax roll will be, 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.

2. This exemption inures to a city, county, or other governmental agency through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, or other governmental agency must file an application which includes the same information required to be provided in subparagraph 1, by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, or other governmental agency seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant or similar grant or loan program.

3. The provisions of s. 212.005(4) do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph

shall exceed the lesser of 87 percent of 5 percent of the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.f. or \$5,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

5. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

6. For the purposes of the exemption provided in this paragraph, the term:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property such that when substantially completed the assessed value for ad valorem tax purposes is 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

7. The provisions of this paragraph shall expire and be void on December 31, 1994.

(h) Business property used in an enterprise zone.

1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath, after the employment requirements of subparagraph 8, have been satisfied, an application which includes:

a. The name and address of the business claiming the refund.

b. The refund permit number assigned pursuant to s. 212.005 to such business.

c. Either the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the business is located, or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.

d. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

e. The location of the property.

f. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

g. The name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the employee resides or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.

3. The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be 97 percent of the sales tax paid on such business property. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.

4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

5. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter.

6. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 219.61 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

7. For the purposes of this exemption, the term "business property" means new or used property defined as "recovery property" in s. 168(e) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(e)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a.; and

c. Building materials as defined in sub-subparagraph (g)6.a.

8. The employment requirements established by this paragraph shall be met during the time period beginning 90 days prior to the date of the initial purchase for which a refund is sought and ending 90 days after the date of the last purchase for which a refund is sought under this paragraph. However, if the business did not exist or was not operating in the enterprise zone 90 days prior to the date of the initial purchase, the employment requirements established by this paragraph shall be met for not less than 90 days after the date of the last purchase for which a refund is sought.

9. The provisions of this paragraph shall expire and be void on December 31, 1994.

(6) EXEMPTIONS, POLITICAL SUBDIVISIONS, COMMUNICATIONS. There are also exempt from the tax imposed by this chapter sales made to the United States Government, the state, or any county, municipality, or political subdivision of this state; provided this exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959; and further provided this exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion. Likewise exempt are newspapers; film rentals, when an admission is charged for viewing such film; and charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.

(6)(7) MISCELLANEOUS EXEMPTIONS.—

(a) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

I. Medical aid for the relief of disease, injury, or disability;

II. Regular provision of physical necessities such as food, clothing, or shelter;

III. Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

IV. Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

V. Medical research for the relief of disease, injury, or disability;

VI. Legal services; or

VII. Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals.

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations in this state which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality in this state or the purpose of which is to protect wildlife in this state and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Secondary Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc. or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private

nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities located in this state. The term "educational institutions" includes any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(b) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(c) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

(d) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions, ~~provided such transactions are for services rendered by a person or institution which provides medical or health care which involve sales as inconsequential elements for which no separate charges are made.~~

2. ~~The above exempted personal service transactions do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. The term "information services" means and includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.~~

(c) Magazines.—There are likewise exempt from the tax imposed by this chapter subscriptions to magazines entered as second-class mail sold for an annual or longer period of time.

(f) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.

(e)(g) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(f)(h) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in

the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(i) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(j) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishermen of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l) Artificial commemorative flowers.—Also exempted from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(g)(m) Boiler fuels.—Purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material for use as a fuel, coal, or wood, wood residues, or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter. This exemption does not apply to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation.

(n) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Regulation under the provisions of s. 403.715.

(o) Solar energy systems and components.—Also exempt from payment of the tax imposed by this chapter is the sale at retail, rental, use, consumption, distribution, or storage to be used or consumed in this state of a solar energy system or any component thereof. The Florida Solar Energy Center shall from time to time certify to the department a list of equipment and requisite hardware considered to be a solar energy system or component thereof. This paragraph is repealed effective June 30, 1989.

(p) Energy efficient devices, systems, and components.—Central air conditioning systems of which the energy efficiency ratio (EER) or the seasonal energy efficiency ratio (SEER) exceeds 10.0; heat pumps of which the energy efficiency ratio (EER) or the seasonal energy efficiency ratio (SEER) exceeds 8.2 and of which the coefficient of performance (COP) exceeds 2.8; water heating systems which recover waste heat from an air conditioning system, which utilize the otherwise unused capacity of a heat pump, or which derive heat from a heat pump dedicated to water heating; and compressor/condenser units installed as replacements in existing systems which will meet the energy efficiency ratio or seasonal energy efficiency ratio requirements of this paragraph as installed are exempt from payment of the tax imposed by this chapter. This exemption is limited to those systems designed primarily for residential use, and any system of heating, ventilating, and air conditioning (HVAC) which includes electric resistance elements as its primary source of heat is not exempt from the tax imposed by this chapter. The provisions of this section apply to transactions occurring between January 1, 1980, and July 1, 1985. Persons who have paid the tax prior to July 1, 1980, may apply to the Department of Revenue for refunds, and the department is authorized to provide for the payment of such refunds.

(q) Nonprofit organizations designated as State Theater Program facilities.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Program facilities as provided in s. 265.287 are exempt from the tax imposed by this chapter.

(r) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h)(s) Feeds.—Feeds for poultry and livestock, including racehorses and dairy cows, are exempt.

(i)(†) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this part nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors in this state. This exemption is extended only to that level of the organization located in this state that has a salaried executive officer or an elected nonsalaried executive officer.

(j)(‡) Nonprofit corporation; home for the aged, nursing home, or hospice.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2), or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(7)(8) PARTIAL EXEMPTIONS, VESSELS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) The sale or use of vessels and parts thereof used to transport persons or property in interstate or foreign commerce is subject to the taxes imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio would be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total Florida purchases of such vessels and parts thereof which are used in Florida to establish that portion of the total used and consumed in intrastate movement and subject to the tax at the applicable rate. Items, appropriate to carry out the purposes for which a vessel is designed or equipped and used, purchased by the owner, operator, or agent of a vessel for use on board such vessel shall be deemed to be parts of the vessel upon which the same are used or consumed. Vessels and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) The partial exemption provided for in this subsection shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be partially exempted are for the exclusive use designated herein and setting forth the extent of such partial exemption. Any person furnishing a false affidavit to such effect for the purpose of evading payment of any tax imposed under this part is subject to the penalties set forth in s. 212.12 and as otherwise provided by law.

(c) It is the intent of the Legislature that neither subsection (4) nor this subsection, whether as currently in effect or as amended by chapter 73-240, Laws of Florida, and in effect between June 22, 1973, and June 13, 1977, shall be construed as imposing the tax provided by this part on vessels used as common carriers, contract carriers, or private carriers, engaged in interstate or foreign commerce, except to the extent provided by the pro rata formula provided in subsection (4) and in paragraph (a).

(8)(9) PARTIAL EXEMPTIONS, RAILROADS AND VEHICLES ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of the railroad which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part.

(b) Vehicles which are licensed as common carriers by the Interstate Commerce Commission or by the U.S. Department of Transportation and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of such vehicles and parts thereof which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Vehicles which are licensed as common carriers by the Interstate Commerce Commission or the U.S. Department of Transportation and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

~~(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF ANOTHER STATE.—The tax collected on the sale of a new or used motor vehicle in this state to a resident of another state shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state of which the purchaser is a resident, except that such tax shall not exceed the tax that would otherwise be imposed under this chapter. At the time of the sale, the purchaser shall execute a notarized statement of his intent to license the vehicle in the state of which he is a resident within 10 days of the sale and of the fact of the payment to the State of Florida of a sales tax in an amount equivalent to the sales tax of his state of residence and shall submit the statement to the appropriate sales tax collection agency in his state of residence.~~

~~(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—~~

~~(a) The tax imposed on the sale by a manufacturer of flyable aircraft, who designs such aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled.~~

~~(b) This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.~~

~~(c) The maximum tax collectible under this subsection may not exceed 5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.~~

~~(d) The purchaser shall execute a sworn affidavit attesting that he is not a resident of this state and stating where the aircraft will be domiciled. If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory.~~

~~(e) The provisions of s. 212.12(1) notwithstanding, manufacturers of flyable aircraft granted the partial sales tax exemption under this subsection shall be allowed to retain a 10 percent deduction of the amount of sales tax due on sales of flyable aircraft manufactured by them if such manufacturers conform to the provisions of this chapter.~~

(9)(12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR VIDEO TAPES.—

(a) There are exempt from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, or master films or master video tapes; except that amounts paid to recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable as otherwise provided in this part.

(b) For the purposes of this subsection, the term:

1. "Amounts paid for the tangible elements" does not include any amounts paid for the copyrightable, artistic, or other intangible elements of such master tapes, records, films, or video tapes, whether designated as royalties or otherwise, including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting a "sale" under s. 212.02(2).

2. "Master films or master video tapes" means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

3. "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

4. "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and includes a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

5. "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

6. "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

7. "Motion picture or television production industry" means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

(c) This subsection shall expire and be void July 1, 1988.

(10)(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. ~~Except for s. 423.02, All special or general laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.50, 159.15, 159.31, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 323.15(6), 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07, 623.09, 637.131, and 637.291 and the following Laws of Florida, acts of the year indicated: s. 31, ch. 30843, 1955; s. 19, ch. 30845, 1955; s. 12, ch. 30927, 1955; s. 8, ch. 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955; s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s. 19, ch. 61-2754; s. 10, ch. 61-2686; s. 11, ch. 63-1643; s. 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.~~

(11)(14) The department shall establish a technical assistance advisory committee with public and private sector members to advise the Department of Revenue and the Department of Health and Rehabilitative Services in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines which are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

~~(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—~~

~~(a) Charges for electrical energy used by a qualified business at a fixed location in an enterprise zone in a municipality which has enacted an ordinance pursuant to s. 166.231(3) which provides for exemption of municipal utility taxes on such businesses shall be exempt from the tax imposed by this chapter for a period of 5 years from the billing period beginning not more than 30 days following notification to the applicable utility company by the department that an exemption has been authorized pursuant to this subsection.~~

~~(b) To receive this exemption, a business must file an application, on a form provided by the department for the purposes of this subsection and s. 166.231(8). The application shall be made under oath and shall include:~~

- ~~1. The name and location of the business.~~
- ~~2. Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.~~
- ~~3. The date on which electrical service is to be first initiated to the business.~~
- ~~4. The name and mailing address of the entity from which electrical energy is to be purchased.~~
- ~~5. The date of the application.~~
- ~~6. The name of the city in which the business is located.~~
- ~~7. The name and address of each permanent employee of the business including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides or such alternate proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.~~

~~(c) If, in a subsequent audit conducted by the department, it is determined that the business did not meet the criteria mandated in this subsection, the amount of taxes exempted shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the due date of each bill for the electrical energy purchased as exempt under this subsection, in the manner prescribed by this chapter.~~

~~(d) The department shall adopt rules governing applications for, issuance of, and the form of applications for the exemption authorized in this subsection and provisions for recapture of taxes exempted under this subsection; and the department may establish guidelines as to qualifications for exemption.~~

~~(e) For the purpose of the exemption provided in this subsection, the term "qualified business" means a business for which not less than 20 percent of its employees are residents of an enterprise zone, excluding temporary employees, for the 5-year duration of this exemption, except as provided in paragraph (f), and which is:~~

- ~~1. First occupying a new structure to which electrical service, other than that used for construction purposes, has not been previously provided or furnished;~~
- ~~2. Newly occupying an existing, remodeled, renovated, or rehabilitated structure to which electrical service, other than that used for remodeling, renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or~~
- ~~3. Occupying a new, remodeled, rebuilt, renovated, or rehabilitated structure for which a refund has been granted pursuant to paragraph (5)(g).~~

~~(f) The employment requirements established by this subsection shall be satisfied, without exception, for the first 6 months of the exemption period authorized in this subsection. Subsequently, any qualified business which fails for a period of 30 consecutive days to maintain such employment requirements will be ineligible for the remainder of the exemption authorized in this subsection.~~

~~(g) This subsection shall expire and be void on December 31, 1994, except that:~~

- ~~1. Paragraph (c) shall not expire; and~~
- ~~2. Any qualified business which has been granted an exemption under this subsection prior to that date shall be allowed the full benefit of this exemption as if this subsection had not expired on that date.~~

Section 10. Subsection (13) of section 288.385, Florida Statutes, is amended to read:

288.385 International currency and barter exchanges.—

(13) The exchange formed under the provisions of this section shall not be subject to any state or local taxes or fees which are measured by income, transaction amounts, or gross receipts, nor shall such exchange

be required to report in respect to such income or transactions under state law and local law. Nothing in this subsection shall be construed to give any member of the exchange any tax exemption. The exemption granted by this subsection does not apply to any tax imposed under part II of chapter 212 or under chapter 220.

Section 11. Subsections (5), (6), (7), and (8) of section 212.031, Florida Statutes; subsection (16) of section 212.08, Florida Statutes, and section 212.096, Florida Statutes, are hereby repealed.

Section 12. (1) Before October 1, 1986, a commission shall be established consisting of five members appointed by the President of the Senate; five members appointed by the Speaker of the House of Representatives; four members appointed by the Governor; and the Executive Director of the Department of Revenue. Commission members shall elect a chairman. The commission shall review the public policy and fiscal impact of exemptions from the sales tax amended or repealed by this act. It shall also review exemptions from the cigarette tax under s. 210.05, Florida Statutes. The commission shall report to the President of the Senate and Speaker of the House of Representatives before the 1987 Regular Session of the Legislature. The report shall contain the recommendations of the commission on rescinding the amendment or repeal of those exemptions amended or repealed by this act or allowing their amendment or repeal to remain effective, and on resolving any inequities within the state tax system. The commission shall meet at the call of the chairman. Members of the commission shall not receive any compensation for serving on the commission but shall be reimbursed for travel and per diem expenses pursuant to s. 112.061, Florida Statutes.

(2) The commission shall be staffed by an executive director and other personnel who shall be appointed by the commission and who shall be exempt from the provisions of part II of chapter 110, Florida Statutes, relating to the Career Service System.

(3) The commission shall be assigned, for administrative purposes, to the Executive Office of the Governor. The Executive Office of the Governor and each state agency shall provide assistance when requested by the commission. Additionally, the commission shall be authorized to employ staff and consultants as necessary to fulfill its responsibilities.

Section 13. The sum of . . . is appropriated from the General Revenue Fund to the Executive Office of the Governor to be used to fund the activities of the commission and to employ commission staff.

Section 14. This act shall take effect July 1, 1987, except that this section and sections 5, 6, 7, 12, and 13 shall take effect July 1, 1986 or upon becoming a law, whichever occurs later.

Amendment 2—In title, on page 1, line 19, strike everything before the enacting clause and insert: A bill to be entitled An act relating to sales tax exemptions; amending ss. 212.02, 212.031, 212.04, 212.05, 212.06, 212.08, 288.385, F.S.; repealing certain sales tax exemptions; providing for taxing certain transactions; providing an exemption for such transactions; providing for future repeal of ss. 212.031(5)-(8), 212.08(16), 212.096, F.S., relating to sales tax exemptions; creating a commission to review certain tax exemptions; providing for membership, staffing, and location of the commission; providing for travel and per diem expenses; providing for legislative review; providing an appropriation; specifying use of the funds; providing an effective date.

On motion by Senator Crawford, by two-thirds vote CS for HB 1307 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—1

Kiser

On motion by Senator Plummer, the rules were waived and the Senate reconsidered the vote by which CS for HB 1307 as amended passed.

CS for HB 1307 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—21

Mr. President	Fox	Jenne	Stuart
Beard	Frank	Kirkpatrick	Thurman
Castor	Girardeau	Malchon	Weinstein
Childers, D.	Gordon	Margolis	
Crawford	Hair	Meek	
Deratany	Hill	Plummer	

Nays—8

Crenshaw	Johnson	Langley	Scott
Jennings	Kiser	Myers	Vogt

Vote after roll call:

Yea—Dunn

Nay—W. D. Childers

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Kirkpatrick, by two-thirds vote SB 342, CS for SB 451, CS for SB 485, Senate Bills 737, 784, 826, CS for SB 892, CS for SB 919, SB 1037 and CS for CS for SB 1172 were withdrawn from the Committee on Appropriations.

On motion by Senator Jenne, by two-thirds vote CS for CS for SB 1111 was withdrawn from the Committee on Appropriations.

On motions by Senator Jenne, by two-thirds vote CS for SB 485, CS for CS for SB 1172, CS for CS for SB 1111, CS for SB 486 and CS for SB 999 were placed on the special order calendar for Friday, May 30.

On motion by Senator Jenne, the Senate recessed at 12:22 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—36:

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

Excused for the funeral of Representative Ray Stewart: Senators Castor, Peterson and Thurman

Reconsideration

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

SB 523—A bill to be entitled An act relating to motor vehicles; amending s. 320.0848, F.S.; providing for biennial renewal of the exemption entitlement parking permit for handicapped persons; revising permit specifications; providing for renewal decals; providing for fees and the disposition thereof; continuing certain existing permits; providing an effective date.

—as amended passed this day.

Senator Plummer moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 8, after the semicolon (;) insert: providing for the issuance of a temporary disability parking permit to a person who is certified by a physician to be temporarily disabled; providing for permit renewal; prescribing format and display requirements for the permit; providing fees; prohibiting fraudulent use of the permit; providing penalties; providing for an appropriation;

SB 523 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—25

Mr. President	Grant	Malchon	Scott
Childers, D.	Grizzle	Margolis	Stuart
Childers, W. D.	Hill	McPherson	Vogt
Crawford	Jenne	Meek	Weinstein
Crenshaw	Jennings	Myers	
Deratany	Johnson	Neal	
Frank	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau, Kirkpatrick

Special Guest

The President introduced the Honorable Bill Nelson, Congressman 11th Congressional District, who presented to the Senate a Florida Senate emblem which he had taken with him on the Space Shuttle Columbia on January 12-17, 1986, along with a certificate of authenticity.

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Harry A. Johnston, II, President

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

HB 903—A bill to be entitled An act relating to adoption; creating an advisory council on adoption within the Department of Health and Rehabilitative Services; providing for membership and terms; providing duties; providing for an annual report; providing for reimbursement for expenses; providing for staff from the department; providing for review and repeal; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

—was referred to the Committees on Health and Rehabilitative Services and Appropriations.

The Honorable Harry A. Johnston, II, President

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

CS for HB 346—A bill to be entitled An act relating to the control of or cruelty to animals; creating s. 828.27, F.S.; providing definitions; granting authority to counties and municipalities to enact ordinances relating to animal control or cruelty; providing for certain minimum provisions in animal control or cruelty ordinances; creating “animal control officers” to issue citations; requiring the issuance of citations for violation of animal control or cruelty ordinances; providing authority for counties and municipalities to enact animal control or cruelty ordinances not in conflict with state law; providing a penalty for the willful refusal to sign and accept a citation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

(Substituted for CS for SB 522 on special order calendar this day.)

The Honorable Harry A. Johnston, II, President

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

HB 781—A bill to be entitled An act relating to probation and community control; amending s. 948.01, F.S.; providing that pretrial intervention program members shall be considered as state employees for the purposes of ch. 440, F.S., relating to workers’ compensation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

(Substituted for SB 555 on special order calendar this day.)

The Honorable Harry A. Johnston, II, President

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

HB 1258—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S., providing legislative intent; creating a Florida Transportation Commission; providing responsibilities; creating s. 334.040, F.S., providing for the functions of the Florida Transportation Commission; creating s. 334.041, F.S., providing for the membership and terms of the commission; creating s. 334.042, F.S., providing for commission meetings, quorums and minutes; creating s. 334.043, F.S., providing for an executive director; providing powers and duties; amending ss. 335.092, 341.061, and 341.344, F.S., revising terminology; creating s. 337.015, F.S., relating to administration of public contracts; providing legislative intent; creating s. 337.145, F.S., providing for offsetting payments by the department; amending s. 337.16, F.S., directing payment of penalty and retainage upon delinquency; providing for denial or suspensions of certificates of qualification by the department with respect to certain contracts; creating s. 337.175, F.S., establishing retainage provisions; amending s. 337.18, F.S., increasing the daily liquidated damages charge; establishing penalty provisions; amending s. 337.185, F.S., authorizing binding private arbitration; creating s. 337.221, F.S., requiring the department to prepare quarterly reports on disputed contractual claims; amending s. 339.135, F.S., providing for legislative approval of department policies; providing for the submission of an annual comparison of the 5-year transportation plan; amending s. 337.11, F.S., providing additional required provisions with respect to contracts let by the Department of Transportation; creating s. 337.125, F.S., providing notice requirements with respect to disadvantaged and women business enterprises; creating s. 337.135, F.S., providing penalties for false representations with respect to socially and economically disadvantaged business enterprises and women business enterprises; creating s. 337.137, F.S., providing for decertification with respect to subcontracting by disadvantaged and women business enterprises; amending s. 339.0805, F.S., providing expenditures for women business enterprises program; creating s. 334.06, F.S., establishing the Florida Transportation Institute; providing for administration of the institute; providing goals for the institute; providing for joint development of the institute’s organizational structure; amending s. 339.08, F.S., providing funding restrictions on establishing urban offices; directing the Division of Statutory Revision to change the term “Secretary of the Department of Transportation” to “head of the Department of Transportation” where appropriate; providing effective dates.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

(Substituted for SB 1015 on special order calendar this day.)

The Honorable Harry A. Johnston, II, President

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

CS for SB 858—A bill to be entitled An act relating to public health units; amending s. 154.04, F.S.; providing conditions under which a registered nurse working in a county public health unit may assess a patient and order and deliver medications; restricting the medications which may be issued; requiring written protocols; providing for inspection of protocols and records; providing for rules; providing for annual evaluation of the effects of the act; providing effective and repeal dates.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, line 6, after the period, insert:

6. Medications dispensed by the public health nurse shall not include the distribution of contraceptions, prescriptions for contraceptions, abortion counseling or abortion referral in the public schools unless otherwise determined by the local government authority or school board.

On motion by Senator Myers, the Senate refused to concur in the House amendment and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments to CS for CS for SB's 465, 349, 592, 698, 699, 700, 701, 702, 956, 977 and 1120 and again requests the Senate to concur, and in the event the Senate refuses to concur, requests a Conference Committee.

The Speaker of the House of Representatives has appointed Representatives Gustafson, Simon, Bell, Burnsed, Patchett; alternate Webster, as Managers on the part of the House.

Allen Morris, Clerk

On motion by Senator Hair, the Senate again refused to concur in the House amendments and acceded to the request for a conference committee. The President appointed Senators Jenne, chairman; Langley, Hair, Crawford and Kirkpatrick as conferees on the part of the Senate. The action of the Senate was certified to the House.

Conference Committee Appointment

The President advised that he had added Senator Meek as an alternate to the Senate Appropriations conferees, Subcommittee B.

SPECIAL ORDER, continued

On motions by Senator Jenne, by two-thirds vote HB 903 was withdrawn from the Committees on Health and Rehabilitative Services and Appropriations.

On motions by Senator Jenne—

HB 903—A bill to be entitled An act relating to adoption; creating an advisory council on adoption within the Department of Health and Rehabilitative Services; providing for membership and terms; providing duties; providing for an annual report; providing for reimbursement for expenses; providing for staff from the department; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for SB 746 and by two-thirds vote read the second time by title. On motion by Senator Jenne, by two-thirds vote HB 903 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Fox	Johnson	Plummer
Beard	Frank	Kiser	Scott
Childers, D.	Gordon	Malchon	Stuart
Childers, W. D.	Grant	Mann	Vogt
Crawford	Grizzle	Margolis	Weinstein
Crenshaw	Hill	McPherson	
Deratany	Jenne	Meek	
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 746 was laid on the table.

On motions by Senator D. Childers, by two-thirds vote HB 1205 was withdrawn from the Committee on Agriculture.

On motions by Senator D. Childers—

HB 1205—A bill to be entitled An act relating to pesticides; amending s. 487.0615, F.S., specifying a time framework for certain action by the Pesticide Review Council; amending s. 487.081, F.S., deleting an exemption from registration and labeling requirements; amending s. 487.158, F.S., providing additional grounds for disciplinary action and penalties under the Florida Pesticide Law; providing an effective date.

—a companion measure, was substituted for CS for SB 1241 and read the second time by title.

Senator D. Childers moved the following amendment which was adopted:

Amendment 1—On page 1, line 25, strike "s. 5E-2.31, Florida Administrative Code" and insert: *as implemented by department rules*

On motion by Senator D. Childers, by two-thirds vote HB 1205 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

CS for SB 1241 was laid on the table.

On motions by Senator Hill—

HB 781—A bill to be entitled An act relating to probation and community control; amending s. 948.01, F.S.; providing that pretrial intervention program members shall be considered as state employees for the purposes of ch. 440, F.S., relating to workers' compensation; providing an effective date.

—a companion measure, was substituted for SB 555 and by two-thirds vote read the second time by title. On motion by Senator Hill, by two-thirds vote HB 781 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

SB 555 was laid on the table.

SB 1170—A bill to be entitled An act relating to motor vehicle racing events; amending s. 549.08, F.S.; providing conditions for the issuance of a permit to conduct a racing event on a public highway or street or in a public park; providing for restoration of asphalt or paving following expiration of the racing permit; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote SB 1170 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Fox	Jennings	Meek
Beard	Girardeau	Johnson	Myers
Childers, D.	Gordon	Kiser	Plummer
Childers, W. D.	Grant	Langley	Scott
Crawford	Grizzle	Malchon	Stuart
Crenshaw	Hair	Mann	Thomas
Deratany	Hill	Margolis	Weinstein
Dunn	Jenne	McPherson	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Gordon, the rules were waived and SB 1170 was ordered immediately certified to the House.

SB 1015—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S., providing legislative intent; creating a Florida Transportation Commission as the head of the department; creating s. 334.040, F.S., providing for the functions of the Florida Transportation Commission; creating s. 334.041, F.S., providing for the

membership and terms of the commission; creating s. 334.042, F.S., providing for commission meetings, quorums and minutes; creating s. 334.043, F.S., providing for an executive director; providing powers and duties; amending ss. 163.804, 282.403, 316.545, 335.092, 337.18, 341.061, 341.302, 341.344, 348.221, 348.756, 349.05, 349.06, 403.1659, 427.012, F.S.; conforming language by assigning certain duties of the Secretary of Transportation to the commission or to the executive director; providing an effective date.

—was read the second time by title.

Four amendments failed, two amendments were adopted and one amendment as amended was adopted to SB 1015 to conform the bill to HB 1258.

On motion by Senator Beard—

HB 1258—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S., providing legislative intent; creating a Florida Transportation Commission; providing responsibilities; creating s. 334.040, F.S., providing for the functions of the Florida Transportation Commission; creating s. 334.041, F.S., providing for the membership and terms of the commission; creating s. 334.042, F.S., providing for commission meetings, quorums and minutes; creating s. 334.043, F.S., providing for an executive director; providing powers and duties; amending ss. 335.092, 341.061, and 341.344, F.S., revising terminology; creating s. 337.015, F.S., relating to administration of public contracts; providing legislative intent; creating s. 337.145, F.S., providing for offsetting payments by the department; amending s. 337.16, F.S., directing payment of penalty and retainage upon delinquency; providing for denial or suspensions of certificates of qualification by the department with respect to certain contracts; creating s. 337.175, F.S., establishing retainage provisions; amending s. 337.18, F.S., increasing the daily liquidated damages charge; establishing penalty provisions; amending s. 337.185, F.S., authorizing binding private arbitration; creating s. 337.221, F.S., requiring the department to prepare quarterly reports on disputed contractual claims; amending s. 339.135, F.S., providing for legislative approval of department policies; providing for the submission of an annual comparison of the 5-year transportation plan; amending s. 337.11, F.S., providing additional required provisions with respect to contracts let by the Department of Transportation; creating s. 337.125, F.S., providing notice requirements with respect to disadvantaged and women business enterprises; creating s. 337.135, F.S., providing penalties for false representations with respect to socially and economically disadvantaged business enterprises and women business enterprises; creating s. 337.137, F.S., providing for decertification with respect to subcontracting by disadvantaged and women business enterprises; amending s. 339.0805, F.S., providing expenditures for women business enterprises program; creating s. 334.06, F.S., establishing the Florida Transportation Institute; providing for administration of the institute; providing goals for the institute; providing for joint development of the institute's organizational structure; amending s. 339.08, F.S., providing funding restrictions on establishing urban offices; directing the Division of Statutory Revision to change the term "Secretary of the Department of Transportation" to "head of the Department of Transportation" where appropriate; providing effective dates.

—a companion measure, was substituted for SB 1015 and by two-thirds vote read the second time by title.

Senator Gordon moved the following amendment:

Amendment 1—On page 3, lines 5-31, all of pages 4-20, and on page 21, lines 1-4, strike all of said lines and pages and insert:

Section 1. Section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation ~~which shall. It is the intent of the Legislature that the Department of Transportation be a decentralized agency. The central office shall formulate policy and shall establish the department's rules, procedures, guidelines, and standards. There shall be allocated to the central office the minimum resources necessary to ensure the efficiency, effectiveness, and quality of the department's performance of its statutory responsibilities. The primary responsibility for the implementation of the department's transportation programs shall be delegated to the districts, and sufficient authority shall be placed in each district to ensure adequate control of the resources commensurate with the delegated responsibility.~~

(1) The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

(3) The secretary shall appoint an assistant secretary who shall possess qualifications similar to those for the secretary and who shall act in the absence of the secretary. The assistant secretary shall be directly responsible to the secretary and shall perform such duties as are assigned to him by the secretary. The assistant secretary shall serve at the pleasure of the secretary.

(4) A Florida Transportation Commission is hereby created to review the policies of the department and to advise the secretary regarding those policies. The commission shall consist of seven members who shall be appointed by the Governor subject to confirmation by the Senate and members shall serve staggered terms of 4 years as provided in s. 334.041. Each member of the commission shall possess practical business management experience.

(5)(a)(4) The following divisions of the Department of Transportation are established in the central office:

- 1.(a) Division of Administration.
- 2.(b) Division of Construction.
- 3.(c) Division of Maintenance.
- 4.(d) Division of Planning.
- 5.(e) Division of Preconstruction and Design.
- 6.(f) Division of Public Transportation Operations.

(b) The central office shall establish the department's rules, procedures, guidelines and standards.

(c) There shall be allocated to the central office the minimum resources necessary to ensure the efficiency, effectiveness and quality of the department's performance of its statutory responsibilities.

(6)(a)(5) The operations of the department shall be organized into a minimum of six districts, each headed by a deputy assistant secretary. In order to provide for efficient operations and to expedite the decision making process, the department shall provide for maximum decentralization to the districts, where appropriate.

(b) The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the deputy assistant secretaries, and sufficient authority shall be vested in each district to ensure adequate control of the resources commensurate with the delegated responsibility. ~~However, adequate policy guidelines, assignment of responsibility, and accountability for decisions shall be established by the department. The responsibility for the establishment and modifications of the department's policies, procedures, guidelines, and standards shall be vested in the secretary and shall be performed in the department's central office. The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the heads of the department's district offices. The secretary shall allocate a minimum amount of resources to the central office commensurate with ensuring efficiency, effectiveness, and quality in the overall management of the department's activities.~~

(c) The department may perform in a single location only those state-wide production-related functions which it can document are accomplished more cost effectively in that location. Specific authority shall be vested in the heads of the district offices to ensure adequate control of field resources commensurate with this responsibility.

(d) In order to assure that no district or county is penalized for local efforts to improve the state highway system, the department shall allocate funds for new construction to the various districts based on equal parts of population and motor fuel tax collections.

(7)(6) Notwithstanding the provisions of s. 110.205, the Department of Administration is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 110.205(2)(l).

(8)(7) To facilitate the efficient and effective management of the department in a businesslike manner, the department shall develop a system for the submission of monthly management reports to the secretary from the districts and other upper level management. Such reports shall include, but not be limited to, information related to budgets, expenditures, contracts, personnel, and related matters. A copy of each such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives on a monthly basis. Recommendations by the Auditor General relating to management practices, systems, or reports shall be implemented in a timely manner.

(9)(8) The department is authorized to contract with local governmental entities and with the private sector to the maximum extent possible for the performance of the department's transportation responsibilities where it can be documented that such entities can perform the activities more cost effectively.

Section 2. Section 334.040, Florida Statutes, is created to read:

334.040 Functions of the Florida Transportation Commission.—

(1) The commission shall have the following primary functions:

(a) Provide guidance to the secretary regarding the policies for all transportation matters under the jurisdiction of the department, and review of any revisions thereto.

(b) Periodically review the status of the state transportation system and recommend improvements to the Secretary.

(c) Review the annual program budget, the Florida Transportation Plan and such other plans as may be periodically developed for compliance with established department policies.

(d) Consider methods by which the department may ensure the efficiency, effectiveness, and quality of the performance of its statutory responsibilities.

(e) Review construction, design and maintenance standards issued by the department for their consistency with any federal regulations or other prevailing state law which may apply.

(f) Provide assistance to the Governor in his selection of the secretary.

(2) The secretary shall report on the status of the department including the status of the budget and 5-year transportation plan, at each commission meeting and may present to the commission any other matter for their consideration.

(3) The commission or any member shall not enter into the day-to-day operation of the department and is expressly forbidden from taking part in:

(a) The awarding of contracts.

(b) The selection of consultants and contractors.

(c) Route selection of specific projects.

(d) The specific location of transportation facilities.

(e) The acquisition of rights-of-way.

(f) The employment, promotion, demotion, suspension, transfer, or discharge of any person.

(g) Prequalification of any individual consultant or contractor.

(h) The granting, denial, suspension, or revocation of any license or permit issued by the department.

Section 3. Section 334.041, Florida Statutes, is created to read:

334.041 Florida Transportation Commission; membership; terms.—

(1) The Florida Transportation Commission shall consist of seven members. One member shall be chosen from each transportation district as the boundaries of the district existed on January 1, 1986, and one member shall be chosen from the state at large. Each member shall be a registered voter and a citizen of the state, and each member chosen from a district shall have been a resident of that district for the 5 years prior to his appointment.

(2) Each member of the commission shall represent the transportation needs of the state as a whole and shall not subordinate the needs of the state to those of any particular area.

(3) The first chairman shall be designated by the Governor and shall serve as chairman for 1 year. Each subsequent chairman shall be selected by the commission members and shall serve a 1 year term.

(4) Members of the commission shall serve terms of 4 years each. Initially, however, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and three members, including the at-large member, shall be appointed to terms of 4 years.

(5) Members of the commission shall be entitled to per diem and traveling expenses pursuant to s. 112.061.

Section 4. Section 334.042, Florida Statutes, is created to read:

334.042 Commission meetings; quorum; minutes.—

(1) The Florida Transportation Commission shall hold a regular meeting at least quarterly. Other meetings may be called by the secretary upon at least one week's notice to all members and the public pursuant to chapter 120, and may be held at the times and places determined by the secretary.

(2) Five members shall constitute a quorum at any meeting of the commission.

(3) The secretary shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

Section 5. Subsections (1) and (2) of section 337.16, Florida Statutes, are amended to read:

337.16 Disqualification of delinquent contractors from bidding; suspension and revocation of certificates of qualification; grounds; hearing.—

(1) A contractor shall not be qualified to bid when an investigation by the department discloses that such contractor is delinquent on a previously awarded contract, and in such case his certificate of qualification shall be suspended or revoked. Any contractor whose certificate of qualification is suspended or revoked for delinquency shall also be disqualified as a subcontractor during the period of suspension or revocation.

(a) A contractor is delinquent when unsatisfactory progress is being made on a construction project or when the allowed contract time has expired and the contract work is not complete. Unsatisfactory progress shall be determined in accordance with the contract provisions.

(b) The department shall inform the contractor in writing of its intent to deny, suspend, or revoke his certificate of qualification to bid on work let by the department for delinquency and inform him of his right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days of the receipt of the notice of intent, the hearing shall be held within 30 days of receipt of the request for the hearing. The recommended order shall be issued within 15 days after the hearing. The contractor's application for a certificate of qualification shall be denied, or the contractor's current certificate of qualification shall be suspended, for the number of days that it is administratively determined that the contractor was delinquent even if the delinquency is cured during the pendency of the hearing proceedings.

(c) In addition to the period of suspension required in paragraph (b), the department shall deny or revoke the certificate of qualification of such contractor in accordance with the following schedule: If a contractor has been suspended twice within an 18-month period, the period of revocation shall be 3 months; if such contractor has been suspended twice within a 24-month period, the period of revocation shall be 2 months; and, if such contractor has been suspended 3 times within a 30-month period, the period of suspension shall be 4 months. The department shall inform the contractor in writing of its intent to deny or revoke his certificate of qualification to bid on work let by the department and inform him of his right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt of the request for the hearing. Upon a determination that the contractor's certificate of qualification had been suspended for delinquency, it shall deny or revoke the certificate of the contractor as provided in this paragraph.

(d) Such suspension or revocation shall not affect the contractor's obligations under any preexisting contract.

(2) For reasons other than delinquency in progress, the department, for good cause, may deny, suspend for a specified period of time, or revoke any certificate of qualification. Good cause includes, but is not limited to, circumstances in which a contractor or his official representative:

(a) Makes or submits to the department false, deceptive, or fraudulent statements or materials in any bid proposal to the department, any application for a certificate of qualification, or any administrative or judicial proceeding;

(b) Becomes insolvent or is the subject of a bankruptcy petition;

(c) Fails to comply with contract requirements, in terms of payment or performance record, or to timely furnish contract documents as required by the contract or by any state or federal statute or regulation;

(d) Wrongfully employs or otherwise provides compensation to any employee or officer of the department, or willfully offers an employee or officer of the department any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment; or

(e) Is an affiliate of a contractor whose certificate of qualification has been suspended or revoked and the affiliate is dependent upon such contractor for personnel, equipment, bonding capacity, or finances.

Section 6. Section 337.175, Florida Statutes, is created to read:

337.175 The department shall provide in its construction contracts for retaining a portion of the amount due a contractor for work that he has completed, until completion and final acceptance of the project by the department. Such retained amounts shall be withheld by the department throughout the life of the contract beginning with the first monthly progress payment to the contractor and shall be equal to 5 percent of the value of the work completed. Notwithstanding s. 255.052, the department may not accept the substitution of securities for amounts retained on a construction contract. 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.

Section 7. Section 337.18, Florida Statutes, is amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(1) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the Governor and his successors in office and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons furnishing labor, material, equipment, and supplies therefor; however, whenever an improvement, demolition, or removal contract price is \$25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order.

(2) The department shall provide in its contracts for the determination of default on the part of any contractor for cause attributable to such contractor. Every contract let by the department for the performance of work shall contain a provision for payment to the department by the contractor of liquidated damages for any such default due to failure of the contractor to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department. Such liquidated damages shall be the amounts established in the following schedule:

<u>Original Contract Amount</u>	<u>Daily Charge Per Calendar Day</u>
\$50,000 and under	\$ 200 50
Over \$50,000 but less than \$250,000	300 100
\$250,000 or more but less than \$500,000	400 200
\$500,000 or more but less than \$2,500,000	550 300
\$2,500,000 or more but less than \$5,000,000	650 600
\$5,000,000 or more but less than \$10,000,000	750
\$10,000,000 or more but less than \$15,000,000	1,000

\$15,000,000 or more but less than \$20,000,000	1,250
\$20,000,000 and over	1,250 plus 0.005 percent per day for any amount over \$20,000,000

Any such liquidated damages paid to the department shall be deposited to the credit of the fund from which payment for the work contracted was authorized.

(3) In addition to the liquidated damages required by subsection (2), a contractor who fails to complete a project within the time stipulated in the contract or within such additional time as the department has granted shall forfeit and pay to the department a penalty, for each day such contractor exceeds the allowed contract time, equal to the daily charge per calendar day set forth in subsection (2).

(4)(3)(a) If the department determines and adequately documents that the timely completion of any project is essential to the public health, safety, or welfare, the contract for such project may provide for an incentive payment payable to the contractor for early completion of the project or critical phases of the work and for additional damages to be assessed against the contractor for the completion of the project or critical phases of the work in excess of the time specified. All contracts containing such provisions shall be approved by the Secretary of Transportation or his designee. The amount of such incentive payment or such additional damages shall be established in the contract but shall not exceed \$10,000 per calendar day for a maximum period of 60 days. Any liquidated damages provided for under subsection (2), any penalty provided under subsection (3), and any additional damages provided for under this subsection shall be payable to the department upon a default because of the contractor's failure to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department.

(b) The department shall adopt rules to implement this subsection. Such rules shall include procedures and criteria for the selection of projects on which incentive payments and additional damages may be provided for by contract.

(5)(4) Such bonds shall be subject to the additional obligation that the principal and surety executing the same shall be liable to the state in a civil action instituted by the department or any officer of the state authorized in such cases, for double any amount in money or property the state may lose or be overcharged or otherwise defrauded of, by reason of any wrongful or criminal act, if any, of the contractor, his agent, or employees.

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

Amendment 1A—On page 6, between lines 17 and 18, insert:

(4) No member of the commission, the secretary or assistant secretary shall have any interest, direct or indirect, in any contract, franchise, privilege, or other benefit granted or awarded by the department during the term of his appointment and for 2 years after the termination of such appointment, pursuant to s. 112.313.

Amendment 1 as amended was adopted.

Senator Gordon moved the following amendments which were adopted:

Amendment 2—On page 26, line 26, after "form" insert: submitted with a bid

Amendment 3—On page 32, strike all of lines 9-24 and insert:

Section 24. This act shall take effect July 1, 1986, or upon becoming law, except that sections 1-4 of this act shall take effect February 1, 1987.

Amendment 4—On page 21, line 31, and on page 22, lines 1 and 2, strike all of said lines and insert: The term "policies" as used in this subparagraph, subparagraph 2. of this paragraph and subparagraph (7) (a)1. means the specific performance goals established by the department to carry out the program objectives provided in s. 334.046. The tentative 5-year transportation plan shall be developed in accordance with and include a statement of the policies implemented in the current adopted 5-year transportation plan.

Amendment 5—In title, on page 1, lines 3-31, on page 2, lines 1-30, and on page 3, line 1, strike all of said lines and insert: Transportation;

amending s. 20.23, F.S., providing legislative intent; creating a Florida Transportation Commission; creating s. 334.040, F.S., providing for the functions of the Florida Transportation Commission; creating s. 334.041, F.S., providing for the membership and terms of the commission; creating s. 334.042, F.S., providing for commission meetings, quorums and minutes; 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; creating s. 337.221, F.S.; requiring the department to prepare quarterly reports on disputed contractual claims; amending s. 339.135, F.S.; providing for legislative approval of department policies; providing for the submission of an annual comparison of the 5-year transportation plan; amending s. 337.11, F.S.; providing additional required provisions with respect to contracts let by the Department of Transportation; creating s. 337.125, F.S.; providing notice requirements with respect to disadvantaged and women business enterprises; creating s. 337.135, F.S.; providing penalties for false representations with respect to socially and economically disadvantaged business enterprises and women business enterprises; creating s. 337.137, F.S.; providing for decertification with respect to subcontracting by disadvantaged and women business enterprises; amending s. 339.0805, F.S.; providing expenditures for the women business enterprises program; and providing criteria for review of expenditures for disadvantaged and women business enterprise programs; creating s. 334.06, F.S.; establishing the Florida Transportation Institute; providing for administration of the institute; providing for joint development of the institute's organizational structure; amending s. 339.08, F.S.; providing funding restrictions on establishing urban offices; providing

On motion by Senator Beard, by two-thirds vote HB 1258 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Beard	Frank	Jennings	Meek
Childers, D.	Gersten	Johnson	Myers
Childers, W. D.	Gordon	Kirkpatrick	Plummer
Crawford	Grant	Kiser	Scott
Crenshaw	Grizzle	Langley	Thomas
Deratany	Hair	Malchon	Vogt
Dunn	Jenne	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Mr. President, Stuart

SB 1015 was laid on the table.

Consideration of CS for SB 601 was deferred.

On motions by Senator Johnson, by two-thirds vote HB 1287 was withdrawn from the Committees on Commerce and Judiciary-Civil.

On motion by Senator Johnson—

HB 1287—A bill to be entitled An act relating to the sale of art; providing definitions; providing restrictions upon the sale of art on consignment; requiring written consignment agreements and specifying certain provisions thereof; creating certain warranties of authenticity in the sale of art by art dealers; providing for the construction of warranties and limitations thereon; providing for the effect of the act on existing rights and liabilities; limiting liability in certain circumstances; providing a penalty for violations; providing exemptions; providing an effective date.

—a companion measure, was substituted for SB 534 and read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 1287 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Vote after roll call:

Yea—Stuart

SB 534 was laid on the table.

Consideration of SB 462 was deferred.

Senator Langley presiding

On motion by Senator Deratany, by two-thirds vote HB 788 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Deratany—

HB 788—A bill to be entitled An act relating to real estate licensure; amending s. 475.011, F.S.; providing that ch. 475, F.S., relating to real estate brokers, salesmen, and schools, does not apply to certain employees of an owner, or broker for an owner, of an apartment community; providing an effective date.

—a companion measure, was substituted for SB 421 and read the second time by title. On motion by Senator Deratany, by two-thirds vote HB 788 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Frank	Jennings	Meek
Childers, D.	Gersten	Johnson	Myers
Childers, W. D.	Girardeau	Kiser	Plummer
Crawford	Gordon	Langley	Scott
Crenshaw	Grant	Malchon	Thomas
Deratany	Grizzle	Mann	Weinstein
Dunn	Hill	Margolis	
Fox	Jenne	McPherson	

Nays—None

Vote after roll call:

Yea—Barron, Stuart

SB 421 was laid on the table.

On motions by Senator Jennings—

CS for HB 346—A bill to be entitled An act relating to the control of or cruelty to animals; creating s. 828.27, F.S.; providing definitions; granting authority to counties and municipalities to enact ordinances relating to animal control or cruelty; providing for certain minimum provisions in animal control or cruelty ordinances; creating "animal control officers" to issue citations; requiring the issuance of citations for violation of animal control or cruelty ordinances; providing authority for counties and municipalities to enact animal control or cruelty ordinances not in conflict with state law; providing a penalty for the willful refusal to sign and accept a citation; providing an effective date.

—a companion measure, was substituted for CS for SB 522 and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 346 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Crawford	Fox	Gordon
Beard	Crenshaw	Frank	Grant
Childers, D.	Deratany	Gersten	Grizzle
Childers, W. D.	Dunn	Girardeau	Hill

Jenne	Langley	McPherson	Scott
Jennings	Malchon	Meek	Thomas
Johnson	Mann	Myers	Vogt
Kiser	Margolis	Plummer	Weinstein

Nays—None

Vote after roll call:

Yea—Stuart

CS for SB 522 was laid on the table.

On motion by Senator Hill, by two-thirds vote HB 560 was withdrawn from the Committee on Commerce.

On motion by Senator Hill—

HB 560—A bill to be entitled An act relating to consumer finance; amending s. 516.01, F.S.; defining “loan”; amending s. 516.02, F.S.; authorizing lenders under the Florida Consumer Finance Act to offer lines of credit and providing restrictions; providing an exemption from interest parity provisions; amending s. 516.035, F.S.; providing for interest on lines of credit advances; amending ss. 516.15 and 516.16, F.S.; exempting lines of credit from maturity date and term disclosures; amending s. 516.36, F.S.; exempting lines of credit from monthly installment requirements; repealing s. 516.20(2), F.S.; removing repayment restrictions on consumer finance loans; providing an effective date.

—a companion measure, was substituted for SB 461 and read the second time by title. On motion by Senator Hill, by two-thirds vote HB 560 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Jenne	McPherson
Beard	Frank	Jennings	Meek
Childers, D.	Gersten	Johnson	Myers
Childers, W. D.	Girardeau	Kiser	Plummer
Crawford	Gordon	Langley	Scott
Crenshaw	Grant	Malchon	Thomas
Deratany	Grizzle	Mann	Vogt
Dunn	Hill	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Stuart

SB 461 was laid on the table.

On motion by Senator Kiser, by two-thirds vote HB 123 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Kiser—

HB 123—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; providing an effective date.

—a companion measure, was substituted for CS for SB 138 and read the second time by title.

Senator Kiser moved the following amendments which were adopted:

Amendment 1—On page 1, line 15, strike everything after the enact clause and insert:

Section 1. Section 455.2273, Florida Statutes, is created to read:

455.2273 Disciplinary guidelines.—

(1) Each board shall adopt, by rule, disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the board.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distin-

guished from those which endanger the public health, safety, and welfare, that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct, and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines.

(4) The department shall review such disciplinary guidelines for compliance with the legislative intent as set forth herein and may also challenge such rules pursuant to s. 455.211.

(5) The rules provided for in this section shall be promulgated no later than January 1, 1987.

Section 2. Subsection (7) is added to section 455.2285, Florida Statutes, 1984 Supplement, to read:

455.2285 Annual report concerning administrative complaints and disciplinary actions.—The Department of Professional Regulation is directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by January 1 of each year, beginning in 1985. In addition to any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(7) *The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.2273, including recommendations for statutory changes necessary for such development or implementation.*

Section 3. Section 455.223, Florida Statutes, is amended to read:

455.223 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, issue subpoenas *which shall be supported by affidavit*, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.58.

Section 4. Subsection (1) of section 455.225, Florida Statutes, 1984 Supplement, is amended to read:

455.225 Disciplinary proceedings.—

(1) The department shall cause to be investigated any complaint which is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule promulgated by the department or a regulatory board in the department has occurred. The department may investigate or continue to investigate, and the department and the appropriate regulatory board may take appropriate final action on, a complaint even though the original complainant withdraws his complaint or otherwise indicates his desire not to cause it to be investigated or prosecuted to completion. The department may investigate a complaint made ~~anonymously~~ or by a confidential informant if the complaint is legally sufficient; if the alleged violation of law or rule is substantial; and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. Unless a complaint has been filed with the department, or the department has been specifically authorized by statute, the department may not initiate an investigation unless it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. When an investigation of any person is undertaken, the department shall notify him of the investigation and inform him of the substance of any complaint filed against him. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any person if the act under investigation is a criminal offense. The department may delegate, by rule, its investigative function regarding a given practice act to the regulatory board having regulatory power over the practice.

Section 5. Section 455.24, Florida Statutes, is amended to read:

455.24 Advertisement by health care provider of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 466, or chapter 474, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT WHICH IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care provider defined by this section if the advertisement appears in a classified directory whose primary purpose is to provide products and services at free, reduced, or discounted price to persons 60 years of age or older and in which the statement prominently appears in at least one place in the directory.

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

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: 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.

On motion by Senator Kiser, by two-thirds vote HB 123 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Jenne	McPherson
Beard	Frank	Jennings	Meek
Childers, D.	Gersten	Johnson	Myers
Childers, W. D.	Girardeau	Kiser	Plummer
Crawford	Gordon	Langley	Scott
Crenshaw	Grant	Malchon	Thomas
Deratany	Grizzle	Mann	Vogt
Dunn	Hill	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Stuart

CS for SB 138 was laid on the table.

On motion by Senator Kiser, the rules were waived and HB 123 was ordered immediately certified to the House.

SB 575—A bill to be entitled An act relating to pari-mutuel taxes; amending s. 550.13, F.S., relating to the distribution of pari-mutuel tax revenues to the counties; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote SB 575 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Jenne	McPherson
Beard	Frank	Jennings	Meek
Childers, D.	Gersten	Johnson	Myers
Childers, W. D.	Girardeau	Kiser	Plummer
Crawford	Gordon	Langley	Scott
Crenshaw	Grant	Malchon	Thomas
Deratany	Grizzle	Mann	Vogt
Dunn	Hill	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Stuart

On motion by Senator Thomas, the rules were waived and SB 575 was ordered immediately certified to the House.

Consideration of SB 571 was deferred.

Senator W. D. Childers presiding

On motion by Senator Vogt, by two-thirds vote CS for HB 115 was withdrawn from the Committee on Commerce.

On motion by Senator Vogt—

CS for HB 115—A bill to be entitled An act relating to worthless checks; amending s. 68.065, F.S., providing treble damages for failure to pay a worthless check; providing a minimum penalty for failure to pay a worthless check; providing a service charge; providing an exception; amending s. 832.07, F.S., providing conforming language; providing an effective date.

—a companion measure, was substituted for CS for SB 1247 and read the second time by title.

Senator Vogt moved the following amendments which were adopted:

Amendment 1—On page 1, line 26, strike "\$100" and insert: \$50

Amendment 2—On page 3, line 22, and on page 4, line 9, after "or" insert: an amount of up to

Amendment 3—On page 2, line 28, and on page 4, line 17, strike "\$100" and insert: \$50 or more than \$2500

On motion by Senator Vogt, by two-thirds vote CS for HB 115 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Barron	Fox	Jenne	Myers
Beard	Frank	Jennings	Plummer
Childers, D.	Girardeau	Kiser	Scott
Childers, W. D.	Gordon	Langley	Thomas
Crenshaw	Grant	Malchon	Vogt
Deratany	Grizzle	Margolis	Weinstein
Dunn	Hill	Meek	

Nays—None

Vote after roll call:

Yea—Hair, Stuart

CS for SB 1247 was laid on the table.

Consideration of SB 214 was deferred.

The President presiding

CS for SB 601—A bill to be entitled An act relating to the Beverage Law; creating s. 561.67, F.S.; providing for a written statement of reclamation of goods issued to a licensed distributor of spirituous and vinous beverages; providing for reclamation and satisfaction of reclamation; limiting liability for certain persons; requiring the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation to adopt rules; providing an effective date.

—was read the second time by title.

Senator Fox moved the following amendments which were adopted:

Amendment 1—On page 1, line 20, after "spirituous" strike "and vinous" and insert: , vinous or malt

Amendment 2—On page 1, line 22, after the period (.) insert: At the time the division issues a written statement of reclamation to the distributor, the division shall mail a copy of the statement to any financial institution which has, according to the records of the Secretary of State, a perfected security interest in the spirituous, vinous or malt beverages inventory of the licensed vendor.

Senators Dunn, Fox and Hair offered the following amendment which was moved by Senator Fox and adopted:

Amendment 3—On page 1, line 27, after "distributor" insert: The issuance of a reclamation statement shall not create a security interest in the inventory which is in the possession of the vendor which is superior to a security interest of any person who has perfected the transaction pursuant to chapter 679, F.S.

Senators Dunn and Johnson offered the following amendment which was moved by Senator Dunn and adopted:

Amendment 4—On page 1, between lines 5 and 6, insert:

Section 2. Paragraph (g) of subsection (2) of section 561.20, Florida Statutes, is amended and paragraph (h) is added to said subsection to read:

561.20 Limitation upon number of licenses issued.—

(g) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any public fair or exposition which is organized in accordance with chapter 616 ~~or to any civic center authority which is authorized by state law or by a local government ordinance.~~ No licensee under this special license shall enter into any exclusive contract for its use. The special license may not be used in connection with any youth agricultural activity or during any regularly scheduled public fair or exposition, and such license may be used only in connection with special events held on the premises of the fairgrounds ~~or civic center,~~ which premises are considered to be licensed premises under the dominion and control of the public fair or exposition ~~or civic center authority~~ at all times. This special license is not transferable, and the license tax shall be in accordance with those established in s. 565.02(1)(b)-(f).

(h) *In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any civic center authority which is authorized by State law or by a local government ordinance or which civic center is otherwise owned by a political subdivision of this state, hereinafter "civic center". The license may be transferred to a qualified applicant authorized by contract with the civic center to provide food service for the civic center. The license shall at all time remain the exclusive property of the civic center and upon termination by any manner of the contract between the civic center and the applicant concerning the furnishing of food service the license shall revert to the civic center by operation of law.*

(1) The division shall not charge a fee in excess of \$250.00 for that license authorized by section 561.20(g) or (h), Florida Statutes.

(Renumber subsequent sections.)

Senator Fox moved the following amendments which were adopted:

Amendment 5—In title, on page 1, line 5, strike "and vinous" and insert: , vinous and malt

Amendment 6—In title, on page 1, line 6, after the semicolon (;) insert: providing for notice to secured creditors;

Senator Dunn moved the following amendment which was adopted:

Amendment 7—In title, on page 1, line 11, after the semicolon (;) insert: amending s. 561.20, F.S.; providing for issuance of special licenses under the Beverage Law to civic center authorities; providing for transfer and reversion;

On motion by Senator Fox, by two-thirds vote CS for SB 601 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

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

Nays—None

On motion by Senator Deratany, by two-thirds vote HB 323 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Deratany—

HB 323—A bill to be entitled An act relating to municipal charter amendments; amending s. 166.031, F.S.; providing clarifying language for purposes of calculating the number of signatures required on a petition for a proposed charter amendment; providing an effective date.

—a companion measure, was substituted for SB 214 and read the second time by title.

Senator Langley moved the following amendment:

Amendment 1—On page 1, strike line 26 and insert:

Section 2. Subsection (1) of section 125.01, Florida Statutes, is amended to read:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. *Any provision in a county charter or ordinance to the contrary notwithstanding, to the extent not inconsistent with general or special law, this power, which may be exercised by the county directly or by contract with a private provider of any such service except law enforcement, includes, but is not restricted to, the power to:*

(a) Adopt its own rules of procedure, select its officers, and set the time and place of its official meetings.

(b) Provide for the prosecution and defense of legal causes in behalf of the county or state and retain counsel and set their compensation.

(c) Provide and maintain county buildings.

(d) Provide fire protection.

(e) Provide hospitals, ambulance service, and health and welfare programs.

(f) Provide parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.

(g) Prepare and enforce comprehensive plans for the development of the county.

(h) Establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public.

(i) Adopt, by reference or in full, and enforce building, housing, and related technical codes and regulations.

(j) Establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs.

(k) Provide and regulate waste and sewage collection and disposal, water supply, and conservation programs.

(l) Provide and operate air, water, rail, and bus terminals; port facilities; and public transportation systems.

(m) Provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities; eliminate grade crossings; provide and regulate parking facilities; and develop and enforce plans for the control of traffic and parking.

(n) License and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county.

(o) Establish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law.

(p) Enter into agreements with other governmental agencies within or outside the boundaries of the county for joint performance, or performance by one unit in behalf of the other, of any of either agency's authorized functions.

(q) Establish, and subsequently merge or abolish those created hereunder, municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which may be provided fire protection, law enforcement, beach erosion control, recreation service and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only. It is declared to be the intent of the Legislature that this

paragraph is the authorization for all counties to levy additional taxes, within the limits fixed for municipal purposes, within such municipal service taxing units under the authority of the second sentence of s. 9(b), Art. VII of the State Constitution.

(r) Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness, which power shall be exercised in such manner, and subject to such limitations, as may be provided by general law. There shall be no referendum required for the levy by a county of ad valorem taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit.

(s) Make investigations of county affairs; inquire into accounts, records, and transactions of any county department, office, or officer; and, for these purposes, require reports from any county officer or employee and the production of official records.

(t) Adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law.

(u) Create civil service systems and boards.

(v) Require every county official to submit to it annually, at such time as it may specify, a copy of his operating budget for the succeeding fiscal year.

(w) Perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.

(x) Employ an independent accounting firm to audit any funds, accounts, and financial records of the county and its agencies and governmental subdivisions. Not fewer than five copies of each complete audit report, with accompanying documents, shall be filed with the clerk of the circuit court and maintained there for public inspection. The clerk shall thereupon forward one complete copy of the audit report with accompanying documents to the Auditor General, who shall retain the same as a public record for 10 years from receipt thereof.

(y) Place questions or propositions on the ballot at any primary election, general election, or otherwise called special election, when agreed to by a majority vote of the total membership of the legislative and governing body, so as to obtain an expression of elector sentiment with respect to matters of substantial concern within the county. No special election may be called for the purpose of conducting a straw ballot.

(z) Approve or disapprove the issuance of industrial development bonds authorized by law for entities within its geographic jurisdiction.

(aa) Use ad valorem tax revenues to purchase any or all interests in land for the protection of natural floodplains, marshes, or estuaries; for use as wilderness or wildlife management areas; for restoration of altered ecosystems; or for preservation of significant archaeological or historic sites.

Section 3. Subsection (1) of section 166.021, Florida Statutes, is amended to read:

166.021 Powers.—

(1) As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and, *any provision in a municipal charter to the contrary notwithstanding*, may exercise, *directly or by contract with a private provider of any municipal service except law enforcement*, any power for municipal purposes, except when expressly prohibited by law.

Section 4. This act shall take effect July 1, 1986, except that sections 2 and 3 shall take effect October 1, 1986.

Point of Order

Senator Gordon raised a point of order that the original bill deals with municipal government and the amendment speaks to county government and was therefore not germane.

The President appointed Senators Jenne and Deratany to meet with the Senate attorney and then advise him on the point of order.

Consideration of HB 323 with pending amendment was deferred.

On motion by Senator Malchon, by two-thirds vote CS for HB 700 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Malchon—

CS for HB 700—A bill to be entitled An act relating to health care facilities; amending s. 400.342, F.S.; clarifying the definition of nursing home; amending s. 400.407, F.S.; increasing the penalty for unlawful operation of an unlicensed adult congregate living facility and creating related offenses; amending s. 400.427, F.S.; expanding prohibitions against facilities and their representatives from acting in certain capacities for residents; requiring certain bonding; changing the frequency in which facilities must report to residents or their representatives regarding their funds or property being held in trust; requiring facilities to provide certain residents with written statements of transactions made on their behalf; prohibiting facilities granted power of attorney from misusing funds; providing a penalty; providing for the return of funds and property of a resident upon his death; providing an effective date.

—a companion measure, was substituted for CS for SB 992 and read the second time by title.

Further consideration of CS for HB 700 was deferred.

On motion by Senator Jenne, the rules were waived and by two-thirds vote HB 323 and all other bills remaining on the special order calendar this day were added to the beginning of the special order calendar for Thursday, May 29.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Jenne, the rules were waived and the Committee on Commerce was granted permission to consider SB 1182 May 29.

On motion by Senator McPherson, by two-thirds vote SB 1097 was withdrawn from the committees of reference and indefinitely postponed.

On motions by Senator Jenne, by two-thirds vote CS for SB 426 and SB 1154 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Jenne, by two-thirds vote CS for SB 986 and CS for SB's 1056 and 1080 were withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Jenne, by two-thirds vote SB 769 was withdrawn from the Committee on Education.

On motion by Senator Jenne, by two-thirds vote SB 795 was withdrawn from the Committee on Corrections, Probation and Parole.

On motion by Senator Jenne, by two-thirds vote CS for SB 915 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Jenne, by two-thirds vote CS for SB 1026 was withdrawn from the Committee on Commerce.

On motion by Senator Neal, by two-thirds vote HB 1187 was removed from the calendar and referred to the Committee on Appropriations.

On motion by Senator Neal, by two-thirds vote SB 1151 was also referred to the Committee on Appropriations.

ENROLLING REPORTS

SB 1322 has been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 23, 1986.

CS for SB 207, CS for SB 208, Senate Bills 238, 283, CS for SB 352 and CS for SB 582 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 26, 1986.

Senate Bills 52, 73 and 605 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 28, 1986.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 22 was corrected and approved.

The Journal of May 20 was further corrected and approved as follows:

Page 257, column 1, in roll call add: Jenne

CO-INTRODUCERS

Senator Kiser—CS for SB 304; Senator Dunn—SB 986; Senator Neal—Senate Bills 1320, 1321, 1322

RECESS

On motion by Senator Jenne, the Senate recessed at 3:35 p.m. to reconvene at 9:00 a.m., Thursday, May 29.

SENATE PAGES

May 26 - 30

Paul Diaz, Coral Gables; Julie Entwistle, Pembroke Pines; Alton Roger Greene, Jacksonville; Donnie Griesheimer, Tallahassee; Jennifer Hanna, Tallahassee; Buffi Jones, Tallahassee; Kelli Michelle Mack, Chattahoochee; Katia Madsen, Tallahassee; Jill M. Nast, Tallahassee; Joseph W. Oswald, Marianna; Tracy Phillips, Marianna; Marlene F. Roberts, Tallahassee; Alyssa Siemon, North Miami Beach; Jeffrey David Sims, Tampa; Kara Elizabeth Skelley, Gainesville; Walter Raynard Spencer, Tallahassee; David Stafford, Tallahassee; John E. Steen, Tallahassee; Bayard Stern, Tallahassee; Tami Carole Whitlock, Jacksonville